CITY CODE

of

ALBERTVILLE, MINNESOTA

2005

Code current through:

Ord. 2023-12, passed 8-7-2023

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PREFACE

This code of the City of Albertville, as supplemented, contains ordinances up to and including ordinance 2023-12, passed August 7, 2023. Ordinances of the City adopted after said ordinance supersede the provisions of this code to the extent that they are in conflict or inconsistent therewith. Consult the City office in order to ascertain whether any particular provision of the code has been amended, superseded or repealed.

American Legal Publishing

Cincinnati, Ohio

ORDINANCES PENDING REVIEW FOR CODIFICATION

Listed ordinances have been passed, but they are pending review by the publisher, and they may not affect the code of ordinances. Additionally, ordinances listed in this section may not show the original ordinances in their entirety. Please contact the office of the clerk if there are any questions concerning any listed ordinances.

ORDINANCE NO. 2023-11

AN ORDINANCE ESTABLISHING TITLE 6, CHAPTER 7, OF THE ALBERTVILLE CITY CODE PROHIBITING THE PUBLIC USE OF HEMP AND CANNABIS PRODUCTS

The City Council of the City of Albertville, Minnesota hereby Ordains:

Section 1. Establishment of Title 6, Chapter 7 of the Albertville City Code. Title 6, Chapter 7, Section 5, of the Albertville City Code is hereby established to state as follows:

CHAPTER 7

PROHIBITING THE PUBLIC USE OF HEMP AND CANNABIS PRODUCTS

Section:

6-7-1 Purpose and Intent

6-7-2 Definitions

6-7-3 Prohibited Activity

6-7-4 Penalty

6-7-5 Conflicts

6-7-1. Purpose and Intent. The purpose of this Section is to regulate the public use of hemp and cannabis products within the City of Albertville, to protect the public health, safety and welfare of its residents.

6-7-2. Definitions. The definitions in Minn. Stat. § 342.01 apply to this Section. In this Section:

Cannabis Flower : The harvested flower, bud, leaves, and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower. Cannabis flower does not include cannabis seed, hemp plant parts, or hemp-derived consumer products.

Cannabis Product : Any of the following: (1) cannabis concentrate; (2) a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants or cannabis flower; or (3) any other product that contains cannabis concentrate. Cannabis product includes adult-use cannabis products, including but not limited to edible cannabis products and medical cannabinoid products.

Lower-Potency Hemp Edible : Any product that (1) is intended to be eaten or consumed as a beverage by humans; (2) contains hemp concentrate or an artificially derived cannabinoid, in combination with food ingredients; (3) is not a drug; (4) consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol, 25 milligrams of cannabidiol, 25 milligrams of cannabigerol, or any combination of those cannabinoids that does not exceed the identified amounts; (5) does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving; (6) does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol; (7) does not contain a cannabinoid derived from cannabis plants or cannabis flower; and (8) is a type of product approved for sale by the Office of Cannabis Management or is substantially similar to a product approved by that Office, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods.

Hemp-Derived Consumer Product : A product intended for human or animal consumption, does not contain cannabis flower or cannabis concentrate, and (1) contains or consists of hemp plant parts; or (2) contains hemp concentrate or artificially derived cannabinoids in combination with other ingredients.

Public Place : Property within the City of Albertville that is owned, leased, or controlled by a governmental unit, including, but not limited to any public street, avenue, boulevard, right of way, road, alley, sidewalk, park, trail, parking lot, building, and vehicle, as well as private property that is regularly and frequently open to or made available for use by the public in sufficient numbers to give clear notice of the property's current dedication to public use. Provided, however, that the following shall not be considered a Public Place:

a private residence including the person’s curtilage or yard; or

the premises of an establishment or event licensed to permit on-site alcoholic consumption, except that consumption that occurs on public property or occurs outside of a permanent, enclosed building shall be considered as occurring on a Public Place.

6-7-3. Prohibited Activity. No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place.

6-7-4. Penalty. Violation of this Section shall be a petty misdemeanor punishable by a fine of not less than the amount set forth in City Code Section 3-1-3.

6-7-5. Conflicts: In the event of any conflict between the provisions of this Section and applicable provisions of State law, rules or regulations, the provisions of State law, rules or regulations shall prevail.

Section 2. Amendment to City Code Section 3-1-3.

Title 3, Chapter 1, Section 3, of the Albertville City Code is hereby amended to add the following fine:

Section	Subject	Fee/Escrow/Penalty
6-7-4	Cannabis use	$100 + costs of prosecution

Section 3. Effective Date. This Ordinance shall be effective immediately upon its passage and publication.

Approved by the City Council of the City of Albertville this 7 th day of August, 2023.

Rob Olson, Acting Mayor

ATTEST:

Kristine A. Luedke, City Clerk

ORDINANCE NO. 2023-13

AN ORDINANCE AMENDING TITLE 3, CHAPTER 1 (GENERAL FINANCE PROVISIONS), SECTION 3 (CITY FEES, FINES, AND RATES SCHEDULE)IN

THE ALBERTVILLE CITY CODE

The City Council of the City of Albertville, Minnesota hereby ordains:

Section 1. Purpose: The purpose of this section is to formally establish the fees, fines, and rates (dollar amounts) to be charged by the City. Fees are subject to State Sales Tax where applicable.

Section 2. Zoning Applications: Zoning applications shall consist of both a fee and escrow to be collected with the application. The fee is a nonrefundable charge for City administration. The escrow account is intended to cover City expenses related to engineering, planning, and legal expenses incurred in the processing of an application. The escrow is an estimate of costs. All applications include a written agreement between the City and the applicant whereby the applicant agrees to pay all applicable fees, charges, administrative, planning, engineering, and legal costs associated with the review and processing of any zoning application. If these expenses exceed the application escrow, the applicant shall be billed for these costs. If monies are not paid within thirty (30) days after the bill is sent to the applicant/landowner, the City will assess the aforementioned fees, charges, and/or expenses against the land subject to the development application.

Section 3. Adoption of the 2024 Fee Schedule. The fees to be charged by the City of Albertville for 2024 are listed on the attached Exhibit A, which is incorporated herein; that said fee schedule is hereby adopted.

Section 4. Continuation/Amendment: Any amendment to the fee schedule shall be made annually, or more often if necessary, by ordinance; if there are no amendments to the fee schedule, the most recently adopted fee schedule ordinance shall remain in force and effect until amended.

Section 5. This ordinance shall be in full force and effective January 1, 2024.

Adopted by the City Council of the City of Albertville this 11 th day of December 2023.

Jillian Hendrickson, Mayor

ATTEST:

Kristine A. Luedke, City Clerk

Proposed City of Albertville 2024 Fee Schedule

PC = Plan Check
SC = Surcharge based on PC value
$1.00 SC = Surcharge on flat fee permits

Section	Subject	Fee/Escrow/Penalty
	Rentals - City Hall:	
	Damage Deposit	$100.00
	Full community room with kitchen - nonresident	$400.00 per 4 hour block + tax
	Full community room with kitchen - resident	$200.00 per 4 hour block + tax
	Key Deposit	$10.00
	Kitchen only - nonresident	$150.00 per event + tax
	Kitchen only - resident	$75.00 per event + tax
	Multipurpose room with kitchen - civic group	1-4 hour block/month free. Additional meeting $150.00 per 4 hour block + tax
	Multipurpose room with kitchen - nonresident	$300.00 per 4 hour block + tax
	Multipurpose room with kitchen - resident	$150.00 per 4 hour block + tax
	Upstairs - nonresident	$150.00 per 4 hour block + tax

	Upstairs - resident	$75.00 per 4 hour block + tax
	Use of audio/visual equipment	$30.00 (cart only) - multipurpose room + tax $50.00 - full community room + tax
	West conference room - nonresident	$20.00 per hour + tax (2 hour minimum)
	West conference room - resident	$10.00 per hour + tax (2 hour minimum)
	Rentals - Parks:	
	Adult fall/winter leagues	$100.00/team per season + tax
	Adult winter tournaments	$100.00/rink per day + tax
	Central Park shelter - damage deposit	$100.00
	Central Park shelter key deposit	$10.00
	Central Park shelter - nonresident	$150.00 per day + tax
	Central Park shelter - resident	$100.00 per day + tax
	Field - damage deposit	$100.00
	Field rental - nonresident	$150.00/field per day + tax
	Field rental - resident	$100.00/field per day + tax
	Key deposit - shelter only	$10.00
	Youth baseball/softball tournaments	$25.00/field per day
	Adult summer leagues	$175.00/team per season + tax
	Adult summer tournaments	$100.00/field per day + tax
	Service:	
	Assessment Certification Fee	$10.00
	Copies - 8 ½ x 11	$0.25/page + tax
	Fax (send or receive)	$0.25/page + tax
	Filing fee for City Council/Mayor	$15.00
	Maps:	
	Street or zoning - 2' x 3'	$5.00/page + tax
Section	**Subject**	**Fee/Escrow/Penalty**
	Street or zoning - 11" x 17"	$0.50/page + tax
	Snowplowing	$150.00 fee + $50.00/hour per man hours and $50.00/hour per piece of equipment (1 hour minimum) + tax or full cost of contract work + tax
	Special Assessment Search	$25.00 per property search
	Administration:	
1-4-1A	Misdemeanor penalties	Not more than $1,000.00
	Petty misdemeanor penalties	Not more than $300.00
1-5-2C1	Fee for special meeting	$150.00
1-6-2	Code offense	$200.00
1-6-6A	Failure to pay late charge	15% for each 7 days
1-6-7A	Second violation	25% over penalty amount
1-6-7B	Third violation	50% over penalty amount
1-6-7C	Fourth violation	100% over penalty amount
	City Finances:	
	Delinquent Invoices	1.5% late fee of unpaid invoice balance (18% APR) every 30 day period
3-1-2	Returned check fee/ACH return fee	$30.00
3-4-3	Filing for deferral status	$25.00
3-5-1C	Burglar and False alarm:	
3-5-2A1a	First - Third	Free
	Fourth	$200.00
	Fifth	$250.00
	Sixth	$300.00
	Seventh	$350.00
	Eighth	$400.00
	Ninth	$450.00
	Tenth	$500.00
3-5-2A	Fire protection/emergency response/chemical/ hazardous materials spill	Hourly rate for personnel and equipment per Wright County Fire Chief's Association Joint Cooperative
3-5-2A2	ATV/UTV with water tank	Agreement for Use of Fire Personnel and
	Command vehicle/utility or grass truck	Equipment
	Engines - all types	
	Extra personnel	
	Fire Investigation Team (County-wide response team)	
	Heavy rescue/rescue/ambulance	
	Ladder/aerial	
	Special Response Unit (County-wide response team)	
	Water tender	
3-5-2B	Fire watch	Hourly rate for personnel and equipment per Wright
3-5-2C	Preventative fire watch	County Fire Chief's Association Joint Cooperative
3-5-2D	Car fires/accidents (nonresidential)	Agreement for Use of Fire Personnel and Equipment
Section	**Subject**	**Fee/Escrow/Penalty**
	Business Regulations:	
4-1-6A	Liquor license:	
	Consumption and display	State license fee
	Off-sale intoxicating liquor	$150.00 per year
4-1-6A	Off-sale 3.2 malt liquor	$100.00 per year
	On-sale intoxicating liquor	$3,300 per year
	On-sale taproom	$210.00 per year
	On-sale 3.2 malt liquor	$100.00 per year
	On-sale wine	$110.00 per year

	Sunday on-sale intoxicating liquor	$200.00 per year
	Temporary intoxication on-sale (1-4 days)	$100.00 per event
	Temporary 3.2 malt on-sale	$10.00 per day
	2 am license	State license fee
	Background investigation fee (new or renewal)	$100.00
4-1-15A	Revocation/suspension of liquor license:	
	Liquor violation - first	$500.00
	Liquor violation - second	$1,000.00
	Liquor violation - third	$1,500.00 + 2 day suspension of license
	Liquor violation - fourth	$2,000 + a suspension of not less than 5 but no more than 60 days or revocation as determined by City Council
4-4-3C	Canvasser	$50.00/individual per 90 days consecutive
	Transient business, peddling, soliciting	$50.00/individual per 90 days consecutive
4-5-7	Massage enterprise license/investigate	$300.00 initially + $50.00 annually
	Massage therapist (individual) practitioner	$50.00 annually
4-6-24C	Unauthorized cable connections and modifications	Not less than $20.00 and the costs of the action nor more than $500.00 and the costs of the action
4-7-2B2	Waste Hauler	$150.00
4-8-2B	Special Event Permit	$50.00 application fee, $25.00 review fee
4-9-3C	Mobile Food Unit	$75.00 annually, $20.00 1-3 day event
4-10-9	Tetrahydrocannabinol "THC" License	$250.00 annually
	Health and Sanitation:	
5-3-3C	Mowing/weed elimination	$150.00 fee + $50.00/hour per man hours and $50.00/hour per piece of equipment (1 hour minimum) + tax or full cost of contract work + tax
5-3-4	Grass and weeds violation	Petty misdemeanor
5-4-5A,B	Open burning violation	Petty misdemeanor or misdemeanor
5-5-2A1	Excessive motor vehicle noise	Misdemeanor
5-5-3A2	Temporary major outdoor music permit	$50.00 per event
5-5-3B2	Minor live outdoor music event	$50.00 annual permit
5-6-3A	Public property vegetation permit	$25.00 per event
5-6-3E	Unauthorized public property tree work	$100.00 fee + $50.00/hour per man hours and $50.00/hour per piece of equipment (1 hour minimum) + tax or full cost of contract work + tax
5-6-5A3	Private property pruning	
5-6-5B3	Private property diseased and infected	
Section	**Subject**	**Fee/Escrow/Penalty**
	Public Safety:	
6-2-14A	Dog impoundment - first	$50.00 + boarding fees
	Dog impoundment - second	$100.00 + boarding fees
	Dog impoundment - subsequent	$200.00 + boarding fees
6-2-16B,C	Commercial kennels	$50.00 annually
6-4-1D2a-D2d	Curfew:	
	Minor - first offense	$75.00 + cost of prosecution
	Parents - first offense	$75.00 + cost of prosecution
6-4-1D2a	Minor - second offense within 6 months	$300.00 + cost of prosecution
D2d	Parents - second offense within 6 months	$300.00 + cost of prosecution
6-7-4	Public Use of Cannabis in Prohibited Areas	$100 + cost of prosecution
	General Traffic Provisions:	
7-1-2	Operation of vehicle in excess of 12,000 pounds on 57th Street, 55th Street, 54th Street, 51st Street from Main Avenue NE to Barthel Industrial Drive NE and 62nd Street from Lakeshore Drive W to 63rd Street NE	Misdemeanor
7-3-6	Operation of snowmobiles and recreational vehicles in violation of Section 7-3-6	Misdemeanor or Petty Misdemeanor + costs of prosecution
7-3-7A1b	Operation of Motorized Golf Cart or ATV on public street permit	$50.00 per three years
	Right-of-Way Fees and Charges:	
8-2-8A	Driveway Permit	$25.00
8-2-8C1	Small Wireless Facility permit	Engineer Estimate
8-2-8L	Collocation rent on City structure	$150.00
	Maintenance cost associated with collocation	$25.00
	Electrical service fee	$73.00 per radio node less than or equal to 100 watts
		$182.00 per radio node over 100 watts
		The actual cost of electricity if actual cost exceeds the forgoing
8-2-11	Registration fee	$75.00 per hour (2 hour minimum)
	Excavation permit fees - hole[1]:	
	Verification:	
	Plan review	$75.00 per hour
	Inspection:	
	Location before work	$60.00 per hour
	Compliance during work	$60.00 per hour
	Completion after work	$60.00 per hour
	Reinspection	$60.00 per hour
	Testing result review:	
	Compaction	$60.00 per hour
	Material	$60.00 per hour
	Mapping:	

	Review data	$60.00 per hour
Section	**Subject**	**Fee/Escrow/Penalty**
8-2-11	Transfer to AutoCad	$60.00 per hour
	Insert to overlay to tie in	$60.00 per hour
	Excavation permit fees - emergency hole[1]:	
	Administration	$75.00 per hour
	Inspection after completion	$60.00 per hour
	Excavation permit fees - trench[1]:	
	Administration	$75.00 per hour
	Verification:	
	Plan review	$75.00 per hour
	Inspection:	
	Location before work	$60.00 per hour
	Compliance during work	$60.00 per hour
	Completion after work	$60.00 per hour
	Reinspection	$60.00 per hour
	Testing result review:	
	Compaction	$60.00 per hour
	Material	$60.00 per hour
	Mapping:	
	Review data	$60.00 per hour
	Transfer to AutoCad	$60.00 per hour
	Insert to overlay to tie in	$60.00 per hour
	Obstruction permit fee[1]:	
	Administration	$75.00 per hour
	Recording	$75.00 per hour
	Review	$100.00 minimum base + $75.00 per hour
	Inspection[1]:	
	Compliance during work	$60.00 per hour
	Completion after	$60.00 per hour
	Permit extension fee[1]:	
	Administration	$75.00 per hour
	Recording	$75.00 per hour
	Review	$75.00 per hour
	Delay penalty	
	Administration	$75.00 per hour
	Water and Sewer Access Charges:	
9-1-2B1	Residential single and multiple dwelling SAC	$4,600.00 per dwelling unit
9-1-2B2a	Nonresidential SAC	$4,600.00 per SAC unit
9-1-2C1	Residential WAC	$950.00 per dwelling unit + Joint Powers fee
9-1-2C2a	Nonresidential WAC	$950.00 per dwelling unit + Joint Powers fee
9-1-2-1D	Water trunk access	$1,925.00 per gross acre
9-1-2-2D	Sanitary sewer trunk access	$2,055.00 per gross acre
	CSAH 37 Special District:	
9-1-2-3D1	Municipal water trunk access	$6,408.00 per acre + interest per Code
9-1-2-3D2	Municipal water trunk access - supplemental connection	$14,934.86
Section	**Subject**	**Fee/Escrow/Penalty**
9-1-2-4D1	Municipal water trunk access	$16,920.00 per acre + interest per Code
9-1-2-4D2	Municipal water trunk access - supplemental connection	$11,266.65
	Water Use and Service	
9-2-5B	Water meter - residential	$490.00
9-2-5B	Water meter - 1"	$660.00
	Water meter - 1.5" T10	$1,330.00
9-2-5B	Water meter – 2" T10	$1,600.00
9-2-10A	Water connection and inspection	$100.00
9-2-10B	Water Base	
	Residential base	$8.38
	1" meter	$11.25
	1.5" meter	$14.28
	2" meter	$17.31
	3" meter	$20.34
	4" meter	$23.37
	Water Tiers	
	Tier 1 0-3,333 gallons	included in base fee
	Tier 2 3,334 - 6,666 gallons	$1.00/1,000 gallons over 3,333
	Tier 3 6,667-11,667 gallons	$1.19/1,000 gallons over 6,666
	Tier 4 11,668-16,668 gallons	$1.35/1,000 gallons over 11,667
	Tier 5 16,669+ gallons	$1.48/1,000 gallons over 16,668
	Sprinkler Base	Meter size
	Tier 1 (all water usage)	$1.63/1,000 gallons
	Joint Powers Water Board portion (JP District)	Per Joint Powers Water Board fee schedule
9-2-10C	Water shutoff notice	$20.00
9-2-10D	Water shutoff and reconnection fee	$35.00 per time
9-3-3A	Sewer connection and inspection/reinspection	$100.00 per occurrence
9-3-3B	Sewer base rate - 0 - 5,000 gallons	$24.92
	Sewer usage rate: Per 1,000 over 5,000 gallons	$4.51
9-3-3D	Delinquent utility account fee	10% late charge of unpaid balance every 30 day period

	Stormwater Utility Charges:	
9-5-4B	Connection charge - single family	$500.00 per unit
	Connection charge - multiple family	$400.00 per unit
	Connection charge - all other construction	$1,500.00 per gross acre
9-5-5A	Stormwater rate:	
	Residential	$4.00 monthly
	Nonresidential 0 - 5% impervious	$6.29 per acre monthly
	Nonresidential 6 - 35% impervious	$11.85 per acre monthly
	Nonresidential 36 - 65% impervious	$16.66 per acre monthly
	Nonresidential 66 - 100% impervious	$29.98 per acre monthly
	Golf courses	$1.00 per acre monthly
9-5-5C	Delinquent stormwater utility fee payment	10% late charge subject to a minimum charge
Section	**Subject**	**Fee/Escrow/Penalty**
9-6-3B5	Noncompliance surcharge for sewer discharge	$100.00 per month added to sewer bill
9-7-2D	Stormwater pond water appropriation fee	$150.00
	Recycling fee	Jan-May 2024: $4.67, June 2024-May 2025 $4.81
	Building and Development Regulation:	
10-1-1C	Commercial certificate of occupancy (temporary)	$50.00
	Escrow for new residentials:	
10-1-3A1b	Fee for temporary certificate of occupancy (single family dwelling)	$50.00
10-1-3D1-D6	Administration fee	$100.00
	Site improvement escrow	$2,500.00
	Fee per tree escrow	$250.00
	Engineer review as built survey fee	$75.00
	Engineer review survey fee	$75.00
	Engineer review - revised survey fee	$75.00
	Landscape reinspection fee	$25.00
	Reinspection fee	$50.00
10-2-3A	Building permit fees - Valuation:	
	$1.00 to $500.00	$50.00
	$501.00 to $2,000.00	$50.00 for the first $500.00, plus $3.70 for each additional $100.00 or a fraction thereof, to and including $2,000.00
	$2,001.00 to $25,000.00	$105.50 for the first $2,000.00, plus $16.55 for each additional $1,000.00 or a fraction thereof, to and including $25,000.00
	$25,001.00 to $50,000.00	$486.15 for the first $25,000.00, plus $12.00 for each additional $1,000.00 or a fraction thereof, to and including $50,000.00
	$50,001.00 to $100,000.00	$786.15 for the first $50,000.00, plus $8.45 for each additional $1,000.00 or a fraction thereof, to and including $100,000.00
	$100,001.00 to $500,000.00	$1,208.65 for the first $100,000.00, plus $6.75 for each additional $1,000.00 or a fraction thereof, to and including $500,000.00
	$500,001.00 to $1,000,000.00	$3,908.65 for the first $500,000.00, plus $5.50 for each additional $1,000.00 or a fraction thereof, to and including $1,000,000.00
	$1,000,001.00 and up	$6,658.65 for the first $1,000,000.00, plus $4.50 for each additional $1,000.00 or a fraction thereof
10-2-3A	Surcharge fee	Fee per MN Statute 326B.148
10-2-3B	Plan review fee	65% of building permit fee per MN Statute 326B.153 subd. 2
10-2-3A,	Air conditioner	$75.00 + $1.00 SC
C,D,E	Gas line (residential)	$75.00 + $1.00 SC
Section	**Subject**	**Fee/Escrow/Penalty**
10-2-3A, C,D,E	Gas line (commercial)	Valuation + SC + PC or minimum $150.00 + $1.00 SC
	Heating/furnace (replacement only)	$75.00 + $1.00 SC
	Backflow irrigation system	$75.00 + $1.00 SC
	Mechanical (existing residence)	Valuation + SC ($75.00 minimum + $1.00 SC)
	Mechanical (new residence)	Valuation + SC ($75.00 minimum + $1.00 SC)
	Mechanical - commercial (new or existing)	Valuation + SC + PC ($150.00 minimum + 1.00 SC)
	Other building permit related inspections and fees:	
	Addition (residential)	Valuation + SC + PC
	Basement finish	Valuation + SC + PC
	Additional plan review required by changes, additions or revisions to plans	$65.00 per hour
	Contractor verification	$5.00
	Commercial Minimum Permit	$150 + 1.00 SC
	Decks	Valuation + SC + PC
	Detached garages/outbuildings	Valuation + SC + PC
	Drain Tile (commercial)	$150.00 + 1.00 SC + PC (If review is needed by Building Official)
	Drain Tile (residential)	$75.00 + 1.00 SC + PC (If review is needed by Building Official)
	Fence (new or existing commercial)	Valuation ($90.00 minimum)
	Fence (new or existing residential)	$75.00
	Fireplace (new or existing residence)	$75.00 + $1.00 SC

	For use of outside consultants for plan checking and inspections, or both	Actual costs
	Gas fitter processing fee	$35.00 (required for all gas connections and work)
	Inspection for which no fee is specifically indicated	$65.00 per hour (minimum charge 1/2 hour)
	Inspections outside of normal business hours	$100.00 per hour
	New Construction (commercial or residential)	Valuation + SC + PC
	Permanent sign	Valuation + SC + PC
	Reinspection fees	$65.00 per hour
	Retaining walls (over 4 ft height)	Valuation
	Site inspection (residential)	$150.00
	Three season and screened porches	Valuation + SC + PC
	Window installation (commercial)	Valuation + SC + PC ($150.00 minimum+ $1.00 SC)
	Window installation (residential)	Valuation + SC
	Plumbing - commercial (new or existing)	Valuation + SC + PC ($150.00 minimum+ $1.00 SC)
	Plumbing (existing residence)	Valuation + SC ($75.00 minimum + $1.00 SC)
	Plumbing (new residence)	Valuation + SC + PC ($150.00 minimum+ $1.00 SC)
	Reroof (commercial)	Valuation + SC + PC ($150.00 minimum+ $1.00 SC)
	Reroofing (existing residence)	Valuation + SC ($150.00 minimum + 1.00 SC)
	Roof Top Unit – Single (commercial)	$150.00 + $1.00 SC
Section	**Subject**	**Fee/Escrow/Penalty**
10-2-3A, C,D,E	Roof Top Unit – Multiple 2 or more (commercial)	Valuation + SC ($150.00 minimum + $1.00 SC)
	Tenant occupancy	$100.00 + $1.00 SC
	Tenant finish	Valuation + SC + PC
	Water heater	$75.00 + $1.00 SC
	Water softener	$75.00 + $1.00 SC
10-3-4	Fire Alarm Permit - commercial	Valuation + SC +PC (SC + PC depends on if State reviews)
	Fire Suppression	Valuation + SC + PC (SC + PC depends on if the State reviews)
10-3-8A	Fire Department lock box - exterior mounted	$190.00 + tax
10-3-9A,B	Fire inspection - commercial	First 3 free, $50.00/commence fourth inspection
	Fire inspection - suppression/alarm	Valuation ($125.00 minimum)
10-4-10D1	Rental units - residential:	
	Multiple family/apartment	$150.00/building + $10.00 per unit
	Single family/townhomes	$100.00 per year
10-4-10D2	Rental unit inspection fee (after 1st reinspection)	$50.00 per occurrence
10-4-13F	Compliance order reimbursement	Cost of remedy and administration (time + materials + equipment)
10-5-3	Numbering buildings violation	Petty Misdemeanor
	Sign Regulations:	
10-7-7B1a	Temporary and/or portable signs	$35.00 per 14 days
10-7-8	Advertising device - billboard	Valuation + PC + SC
	Advertising device renewal fee	$75.00 annually
	Business sign permit	Valuation + PC + SC
	Change of advertising device	Valuation + PC + SC
10-7-9B	Sign Code violation	$200.00
	Vacant Building Registration:	
10-8-5	Vacant building registration	$100.00 annually
10-8-6C	Vacant building securing by City	Cost of time + materials + equipment + tax
10-8-6D	Vacant building mowing lawn by City	$150.00 fee + $50.00/hour per man hours and $50.00/hour per piece of equipment (1 hour minimum) + tax or full cost of contract work + tax
10-8-8	Penalty for failure to register a vacant building	$100.00 per month
	Subdivision Regulations:	
11-2-7A	Administrative subdivision	$400.00/$1,500.00
	Sketch plan	$200.00/$2,500.00 plus $50.00 per lot
	Preliminary plat:	
	Residential	$450.00/$5,000.00 or $250.00 per lot, whichever is greater
	Commercial/industrial	$450.00/$5,000.00 plus $500.00 per lot; whichever is greater
	Final plat	$400.00/$2,500.00
	Park dedication:	
Section	**Subject**	**Fee/Escrow/Penalty**
11-2-7A	Residential	$3,630.00 per residential unit
	Commercial	$9,020.00 per acre subdivided
	Industrial	$2,750.00 per acre subdivided
	Variance/appeal	$300.00/$500.00
11-2-7B	Administrative fee	3.5% of all Municipal improvement costs
	Appendix A - Zoning Ordinance:	
300.1A	Rezoning	$400.00 + $1,000.00 escrow
400.2A	Conditional use permit:	
	Site <4 acres	$300.00 + $1,500.00 escrow
	Site 4 - 10 acres	$300.00 + $2,500.00 escrow
	Site >10 acres	$300.00 + $5,000.00 escrow
500.2A3a	Minor variance	$100.00 + $100.00 escrow
500.2B2	Major variance/appeals	$300.00 + $650.00 escrow
	Vacations	$300.00 + $1,000.00 escrow
700.2	Certificate of occupancy of zoning	$200.00

800.2	Administrative enforcement	$1,000.00
1000.5B	Swimming pool permit	Valuation + PC + SC
1000.7B1a	Landscaping, general - sodding/seeding	$100.00 administrative fee + escrow of $3,000.00 (minimum) or 1.5 times the cost of ground cover, whichever is greater
1000.7B1b	Nongrowing season escrow	
1000.7C2b	Landscaping, new residential - required ground cover escrow	
1000.22	Temporary outdoor seasonal sales	$50.00 per event
1500.4 & 1500.6A	Administrative permits and minor site and building plan review	$250.00 + $250.00 escrow
1500.2 & 1500.5 & 1500.6	Site and building plan review (major):	
	Site <4 acres	$300.00 + $1,500.00 escrow
	Site 4 - 10 acres	$300.00 + $2,500.00 escrow
	Site <4 acres	$300.00 + $5,000.00 escrow
1600.3B	Special home occupation permit	$100.00
1800.2A	Land filling permit (in excess of 20 cu. yards):	
	Residential - single lot	$25.00
	Commercial/industrial/institutional	$200.00 + $1,000.00 per acre escrow
1900.3A	Land excavation, grading permit (in excess of 20 cu. yards):	
	Residential - single lot	$25.00
	Commercial/industrial/institutional	$200.00 + $1,000.00 per acre escrow
2100.2	Essential service permit	$300.00 + $1,000.00 plus $50.00 per lot escrow
2700.4A1	PUD rezoning	$400.00 + $50.00 per lot + $5,000.00 escrow
2700.4C2b	PUD concept plan	$300.00 + $50.00 per lot + $1,500.00 escrow
2700.4D	PUD development stage plan	$300.00 + $1,000.00 escrow
2700.4E	PUD final plan	$300.00 + $1,000.00 escrow
5100.10	Flood regulations violation	Not more than $1,000.00 or imprisonment not to exceed 90 days, or both, plus cost of prosecution in either case

1. Fees shall be based on an hourly rate as estimated by the City Engineer.

ORDINANCE NO. 2024-01

AN ORDINANCE AMENDING SECTION 1000.5.E.2.e ALBERTVILLE MUNICIPAL CITY CODE, RELATING TO HOT TUB FENCES

The City Council of the City Of Albertville, Minnesota hereby Ordains:

Section 1. Ordinance 1000.5.E.2.e., Hot Tubs of the Albertville City Code is hereby amended to add the underlined text as follows:

1000.5 E: HOT TUBS:

E. Hot Tubs:

1. Hot tubs accessory to multiple-family residential uses and commercial uses shall comply with swimming pool performance standards of subsection D of this section.

2. Hot tubs accessory to single- and two-family residential units may be allowed by administrative permit and exempt from the swimming pool performance standards of this section but shall meet the following standards:

a. Hot tubs shall not be located in front of the principal building.

b. Hot tubs shall not be located within the required side yard of any zoning district.

c. Hot tubs shall not be located any closer than ten feet (10') from any rear property line.

d. All filter units, heat units, pumps, and any noise generating equipment shall be enclosed within the cabinet of the hot tub and insulated to buffer noise.

e. All outdoor in ground hot tubs shall be enclosed within a protective fence with a self-locking gate or shall be secured with a locked cover when not in use. Outdoor above ground hot tubs with means to secure access to the hot tub are exempt from the required fence and gate requirements.

Section 2. This amendment shall be in full force and effective immediately following its passage and publication.

Adopted by the City Council of the City of Albertville this 20th day of February 2024.

Jillian Hendrickson, Mayor

ATTEST:

Kristine A. Luedke, City Clerk

ADOPTING ORDINANCE

ORDINANCE NO. 2005-06

CITY OF ALBERTVILLE

COUNTY OF WRIGHT

STATE OF MINNESOTA

AN ORDINANCE ADOPTING THE 2005 CITY OF ALBERTVILLE MUNICIPAL CITY CODE

BE IT ORDAINED by the mayor and city council of the city of Albertville, county of Wright, state of Minnesota as follows:

Section 1: Pursuant to the provisions of Minnesota statutes section 415.021, and from and after the date of passage of this ordinance, the city code of the city of Albertville, county of Wright, state of Minnesota prepared by Sterling Codifiers, Inc. containing the compilation of all ordinances of a general nature together with the changes made to said ordinances, under the direction of the governing body of the city, shall be accepted in all courts without question as the official code and law of the city as enacted by the mayor and city council.

Section 2: There is hereby adopted, as a method of perpetual codification, the loose-leaf type of binding together with the continuous supplement service, provided by Sterling Codifiers, Inc., whereby each newly adopted ordinance of a general and permanent nature amending, altering, adding or deleting provisions of the official city code is identified by the proper catch line and is inserted in the proper place in each of the official copies, one copy of which shall be maintained in the office of the city clerk, certified as to correctness and available for inspection at any and all times that said office is regularly open.

Section 3: All ordinances of a general nature included in this official city code shall be considered as a continuation of said ordinance provision and the fact that some provisions have been deliberately eliminated by the governing body shall not serve to cause any interruption in the continuous effectiveness of ordinances included in said official city code. All ordinances of a special nature, such as tax levy ordinances, bond ordinances, franchises, vacating ordinances and annexation ordinances shall continue in full force and effect unless specifically repealed or amended by a provision of the city code. Such ordinances are not intended to be included in the official city code.

Section 4: It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

Section 5: All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

Section 6: This ordinance and the code adopted by the same shall be recorded and shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED this 15th day of August, 2005.

APPROVED this 15th day of August, 2005.

Donald Peterson, Mayor

ATTEST:

Bridget Miller, City Clerk

Roll Call Vote: Mayor Peterson, council members Berning, Vetsch, Klecker, and Fay.

AYES: Five

NAYS: None

ABSENT: None

TITLE 1

ADMINISTRATION

CHAPTER 1

OFFICIAL CITY CODE

SECTION:

1-1-1: Title

1-1-2: Acceptance

1-1-3: Amendments

1-1-4: Code Alterations

1-1-1: TITLE:
Upon the adoption by the city council, this city code is hereby declared to be and shall hereafter constitute the official city code of Albertville. This

city code of ordinances shall be known and cited as the *ALBERTVILLE CITY CODE* and is hereby published by authority of the council and shall be supplemented to incorporate the most recent legislation of the city as provided in section 1-1-3 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this city code by title in any legal documents. (2005 Code)

1-1-2: ACCEPTANCE:
The city code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the city of general and permanent effect, except the excluded ordinances enumerated in section 1-2-1 of this title. (2005 Code)

1-1-3: AMENDMENTS:
Any ordinance amending the city code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this city code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this city code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the city code. (2005 Code)

1-1-4: CODE ALTERATIONS:
It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this city code in such a manner that the meaning of any phrase or order may be changed or omitted. Said code, while in actual possession of officials and other interested persons, shall be and remain the property of the city and shall be returned to the office of the city clerk when directed so to do by order of the city council. (2005 Code)

CHAPTER 2

SAVING CLAUSE

SECTION:

1-2-1: Repeal Of General Ordinances

1-2-2: Public Ways And Public Utility Ordinances

1-2-3: Court Proceedings

1-2-4: Severability Clause

1-2-1: REPEAL OF GENERAL ORDINANCES:
A. Ordinances Repealed And Ordinances Saved From Repeal: All general ordinances of the city passed prior to the adoption of this city code are hereby repealed, except such as are included in this city code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; ordinances relating to adoption of or amendments to the city's zoning map; ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the city; and all special ordinances.

B. Limitations On Repeal: The repeal of the ordinances, as provided in subsection A of this section, shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded. (2005 Code)

1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:
No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this city code or by virtue of section 1-2-1 of this chapter, excepting as the city code may contain provisions for such matters, in which case, this city code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (2005 Code)

1-2-3: COURT PROCEEDINGS:
A. Prior Acts: No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

B. Extend To All Repeals: This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

C. Current Pending Actions: Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of the adoption of this city code. (2005 Code)

1-2-4: SEVERABILITY CLAUSE:
If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this city code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (2005 Code)

CHAPTER 3

DEFINITIONS

SECTION:

1-3-1: General Rules Of Interpretation

1-3-2: Definitions, General

1-3-3: Catchlines

1-3-1: GENERAL RULES OF INTERPRETATION:

A. Liberal Construction: All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the mayor and city council may be fully carried out.

B. Minimum Requirements: In the interpretation and application of any provision of this code, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety and general welfare.

C. Computation Of Time: Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be held shall be counted.

D. Delegation Of Authority: Whenever a provision appears requiring the head of a department or some other city officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

E. Gender: A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

F. Joint Authority: All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

G. May/Shall: The word "may" is permissive; the word "shall" is mandatory.

H. Nontechnical And Technical Words: Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

I. Number: A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

J. Officers And Employees Generally: Whenever any officer or employee is referred to by title only, such reference shall be construed as if followed by the words "of the city of Albertville".

K. Tense: Words used in the past or present tense include the future as well as the past and present.

L. Ordinance: The word "ordinance" contained in the ordinances of the city has been changed in the content of this city code to "title", "chapter", "section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to the city's ordinances is not meant to amend passage and effective dates of such original ordinances. (2005 Code)

1-3-2: DEFINITIONS, GENERAL:

Whenever the following words or terms are used in this code, they shall have the meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.

CITY: The city of Albertville, county of Wright, state of Minnesota.

CODE: The city code of the city of Albertville.

COUNCIL: Unless otherwise indicated, the city council of the city of Albertville.

COUNTY: The county of Wright, state of Minnesota.

LICENSE: The permission granted for the carrying on of a business, profession or occupation.

MSA: Minnesota Statutes Annotated, as amended.

OCCUPANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

OFFENSE: Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.

OPERATOR: The person who is in charge of any operation, business or profession.

OWNER: As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

PERSON: Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

PERSONAL PROPERTY: Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

RIGHT OF WAY: The privilege of the immediate use of the roadway or other property.

STATE: The state of Minnesota.

STREET: Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

TENANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

WHOLESALER AND WHOLESALE DEALER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark. (2005 Code)

1-3-3: CATCHLINES:
The catchlines of the several sections of the city code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (2005 Code)

CHAPTER 4

GENERAL PENALTY

SECTION:

1-4-1: General Penalty

1-4-2: Application Of Provisions

1-4-3: Liability Of Officers

1-4-1: GENERAL PENALTY [1] :
A. Misdemeanor Or Petty Misdemeanor Violation; Penalties: Violation of a provision of this code is a misdemeanor or petty misdemeanor and, upon conviction thereof, a person may be punished by a fine established in section 3-1-3 of this code, or such other amount set by law, or imprisonment for a term not to exceed ninety (90) days, or such other term set by law, or both, but in either case, the costs of prosecution may be added. Each act of violation and each day on which a violation occurs or continues is a separate violation. (Ord. 2017-01, 1-3-2017)

B. Definition Of Misdemeanor And Petty Misdemeanor: A "misdemeanor" is an offense or crime that the city council is empowered to punish with fine or imprisonment; a "petty misdemeanor" is as defined by law.

C. Limitation; Compliance With Statute: The provisions of subsection A of this section notwithstanding, no penalty shall be greater than that established by state statute for the same offense. (2005 Code)

Notes

1 1. MSA § 412.231.

1-4-2: APPLICATION OF PROVISIONS:
A. Application Of Penalty: The penalty provided in this chapter shall be applicable to every section of this code the same as though it were a part of each and every separate section.

B. Acts Punishable Under Different Sections: In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

C. Breach Of Provisions: Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this code and there shall be no fine or penalty specifically declared for such breach, the provisions of this chapter shall apply. (2005 Code)

1-4-3: LIABILITY OF OFFICERS:
No provision of this code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the city council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (2005 Code)

CHAPTER 5

MAYOR AND CITY COUNCIL

SECTION:

1-5-1: Compensation

1-5-2: Meetings And Procedures

1-5-1: COMPENSATION:
Effective January 1, 2023, compensation of the mayor shall be five hundred dollars ($500.00) per month, and compensation for each council member shall be four hundred dollars ($400.00) per month. Said salaries include attendance at any and all meetings of the council, its boards, commissions, committees, and intergovernmental assignments. (Ord. 2006-11, 8-7-2006; amd. Ord. 2022-01, 1-18-2022)

1-5-2: MEETINGS AND PROCEDURES:
A. Authorization: Pursuant to Minnesota statutes and this section, the city council prescribes the processes to be used for the conduct of its meetings and for passing ordinances and resolutions.

B. Types Of Meetings: The city council shall conduct regular, special, adjourned and emergency meetings. (Ord. 1997-11, 9-8-1997)

C. Fee For Special Meetings:

1. Fee Established: All persons, companies, groups, or organizations which request city council action prior to the next regularly scheduled city council meeting shall pay a special city council meeting fee, as established in section 3-1-3 of this code, at the time of request of city council action. (Ord. 2000-7, 7-17-2000; amd. 2005 Code; Ord. 2017-01, 1-3-2017)

2. Refund: The special meeting fee shall be refunded if the city council fails to meet in special session to consider the request. The requester shall not be entitled to a refund solely on the grounds that the city council did not approve or grant the action requested.

3. Fee Reduction Or Waiver: If the city council determines that the requester has demonstrated good cause for not submitting its request to the city in time for the matter to be acted upon at a regularly scheduled city council meeting, the city council may, in its discretion, reduce or waive all or part of the special meeting fee. (Ord. 2000-7, 7-17-2000; amd. 2005 Code)

D. Action At January Meeting: The city council shall annually, at its first regular meeting in January of each year, designate an official newspaper; select one acting mayor; select an official depository(ies); review the council ordinance prescribing its meetings, processes, ordinances and resolutions; renew all annual appointments other than city personnel (handled at time of initial appointment to city service); and assign committee duties to members. (Ord. 1997-11, 9-8-1997; amd. 2005 Code)

E. Meeting Processes And Procedures: The following prescribes the requirements for quorum and open meeting law:

1. Quorum: State law requires the presence of any three (3) members of a statutory city council.

2. Open Meeting Law: All meetings of municipal and other public bodies and any committee, subcommittee, board, department or commission of the governing body are open to the public.

3. Citizen Participation: Anyone may attend council meetings. Citizens cannot speak or otherwise participate in any discussion unless the mayor or presiding officer recognizes them. The council by motion may decide to hear one or more speakers from the audience in the event the mayor or presiding officer does not recognize them. (Ord. 1997-11, 9-8-1997)

4. Proper Notice: In compliance with state law[1], the council shall post notice three (3) days before holding a special meeting and will post proper notice at an official location in city hall as determined by formal action (motion or resolution) of the council. (Ord. 1997-11, 9-8-1997; amd. 2005 Code)

F. Presiding Officer: The mayor by statute serves as the presiding officer whenever present. In the mayor's absence, the acting mayor serves, or in the acting mayor's absence, the other members of the council may elect one of their members to serve. Other public bodies, committees, subcommittees, boards, departments, or commissions shall have a president/chair and may have a vice president/vice chair to serve as the presiding officer or as elected by the other members to serve.

G. Maintaining Order: Although meetings must be open to the public, no person who is noisy or unruly has a right to remain in the council chambers. Subject to overrule by the council, board/commission or committee, the mayor or presiding officer shall order removal from the room. In the event the mayor or presiding officer fails to act, the council, board/commission or committee should order the removal.

H. Rules Of Procedure:

1. Meetings: The city council shall conduct two (2) regular meetings per calendar month to be held on the first and third Mondays at seven o'clock (7:00) P.M. in the city hall council chambers. Special meetings may be conducted as required by the business at hand at a time and place determined by the call for the meeting. Adjourned and emergency meetings follow the requirement of the special meeting.

2. Agenda: The council prescribes the order of their business to be established for regular meetings by resolution. Special, adjourned, and emergency meetings are topic specific as to purpose and shall be so stated on notice and agenda(s).

3. Time Lines:

a. Agenda Items: The city council prescribes that all matters scheduled for consideration at their regular meetings shall be submitted to the city clerk no later that five (5) calendar days in advance of the actual meeting date (generally the Wednesday prior to the council meeting on the first and third Mondays of a calendar month). Special, adjourned and emergency meetings shall be dependent on the nature of the meeting. Matters submitted shall meet the posting and notice requirements and will be received by the city clerk.

b. Claims For Payments: Claims for payment shall meet the time lines for regular meetings as contained in subsection H3a of this section, with the exception of preapproved claims such as utility bills, contract payments and so on.

I. Motions, Resolutions And Ordinances: A motion is a matter of parliamentary procedure and will be sufficient for most simple administrative acts. Resolutions will be used for any temporary routine or administrative nature. Ordinances will generally be used for regulation or governance of people or property and usually include a penalty for its violation (i.e., police power), as well as provide for permanent rules for the organization and operation of the council.

J. Parliamentary Procedure: All points not covered by this section and statute shall be guided by "Robert's Rules Of Order". (Ord. 1997-11, 9-8-1997)

K. Committees: The city council shall have at a minimum four (4) standing city council committees comprised of two (2) city council members and the council member alternate. Committees established are for finance and personnel, public works, parks and recreation, and public safety. This subsection also allows for the establishment of additional committees on a temporary basis as may be required from time to time, with membership including at least two (2) city council members and other participants as determined by the city council as a whole. (Ord. 1997-11, 9-8-1997; amd. 2005 Code)

Notes

1 1. MSA § 13D.04.

CHAPTER 6

ADMINISTRATIVE ENFORCEMENT OF CITY CODE AND ORDINANCES

SECTION:

1-6-1: Purpose And Intent

1-6-2: Definitions

1-6-3: Procedure

1-6-4: Appeal To Hearing Officer

1-6-5: Appeal Of Hearing Officer Decision

1-6-6: Failure To Pay

1-6-7: Subsequent Violations

1-6-1: PURPOSE AND INTENT:
The administrative enforcement procedures established in this chapter are intended to provide the city with an informal, cost effective and more efficient alternative to criminal prosecution or civil litigation for certain violations of this code and city ordinances. The city retains the right, at its sole discretion, to enforce provisions of this code and city ordinances by bringing criminal charges or commencing civil litigation in any case where the city determines it is appropriate or necessary, but finds that an administrative process is beneficial to the residents of the city and further finds that such a process is a legitimate and necessary alternative method of enforcing code or ordinance violations. (Ord. 2004-06, 9-7-2004)

1-6-2: DEFINITIONS:
CODE COMPLIANCE OFFICER: Any officer of the Wright County sheriff's department, any employee of the city, or any person or company contracted to provide code enforcement services who has received official authority by the Albertville city council to enforce this code and city ordinances. There may be more than one person designated as code compliance officer at any given time.

CODE OFFENSE: A violation of any section, subdivision, paragraph or provision of this code or any Albertville city ordinance and is subject to a civil penalty determined according to a schedule established in section 3-1-3 of this code and payable directly to the city treasurer. Each day the violation exists constitutes a separate code offense.

OWNER: An individual, association, syndicate, partnership, corporation, limited liability company, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.

PERSON: A natural person of either sex, a firm, partnership, corporation, limited liability company, any other association of people, and includes the manager or agent of that person or organization. (Ord. 2004-06, 9-7-2004; amd. Ord. 2017-01, 1-3-2017)

1-6-3: PROCEDURE:
A. Administrative Notice:

1. Issuance: A code compliance officer may issue, either in person or by United States first class mail, an administrative notice to a person suspected or known to have committed a code offense and/or to be the owner of property upon which a code offense is being committed.

2. Contents: The administrative notice shall identify the code offense, the location upon which the code offense occurred or is occurring, and the recommended corrective action for the code offense. The administrative notice may also state that the alleged violator has, at the discretion of the code compliance officer, up to fifteen (15) days to correct or abate the code offense.

3. Time Extensions: If the alleged violator and/or owner of property upon which a code offense is being committed is unable to correct or abate the code offense within the prescribed time, that person may request in writing an extension of no more than thirty (30) additional days from the code compliance officer. Any extension granted by the code compliance officer shall be in writing and shall specifically state the date of expiration.

4. Failure To Remedy: If the code offense is not corrected or abated, as outlined in the administrative notice, within the prescribed time or any extension thereto, the code compliance officer may issue a citation, as provided in subsection B of this section.

B. Citation:

1. Authority: A code compliance officer is authorized to issue a citation upon the belief that a code offense has occurred, whether or not an administrative notice has first been issued in regard to said code offense.

2. Issuance: The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the violation has occurred, either by personal service or by United States first class mail. (Ord. 2004-06, 9-7-2004)

3. Contents: The citation shall state the nature of the code offense, the time and date said code offense occurred, the civil penalty applicable to that code offense as set forth in section 3-1-3 of this code, and the manner for paying the civil penalty or requesting a hearing before a hearing officer to contest the citation. (Ord. 2004-06, 9-7-2004; amd. Ord. 2017-01, 1-3-2017)

C. Response To Citation; Payment: Once a citation is issued, the alleged violator and/or the owner of the property upon which the violation has occurred shall, within fifteen (15) days of the time of issuance of the citation, either pay the civil penalty set forth in the citation or request a hearing in writing according to the procedure set forth in this chapter. The civil penalty may be paid either in person at city hall or by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days. Payment of the civil penalty shall be deemed to be an admission of the code offense. (Ord. 2004-06, 9-7-2004)

1-6-4: APPEAL TO HEARING OFFICER:
A. Hearing Officer:

1. Appointment; Compensation: The city council shall, by resolution from time to time, appoint a list of persons authorized to act as hearing officer.

2. Authority: The hearing officer is authorized to conduct an informal hearing to determine if a code offense has occurred.

3. Decisions: The hearing officer shall have the authority to uphold or dismiss the citation or reduce, stay or waive the civil penalty imposed upon such terms and conditions as the hearing officer shall determine. The hearing officer's decision shall be made in writing on a form provided by the city for such purpose. A copy of the hearing officer's decision shall be served by United States first class mail upon the person requesting the hearing. The hearing officer's decision is final, except for appeal of the hearing officer's decision in limited cases to the city council, as set forth in section 1-6-5 of this chapter.

4. Compensation: The hearing officer may be compensated by the city for such hearings and related findings.

B. Request For Hearing: Any person contesting a citation issued pursuant to this chapter may, within fifteen (15) days of the time of issuance of the citation, request a hearing before a hearing officer. Any request for a hearing before a hearing officer shall be made in writing on a form provided by the city for such a request and either delivered personally to the city at city hall or mailed to the city by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days.

C. Time For Hearing: The hearing shall be held at city hall within thirty (30) days of the date the city received a timely written notice that a hearing has been requested.

D. Failure To Attend Hearing: Failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. A determination of good cause shall be made by the hearing officer, but does specifically not include forgetfulness or intentional delay.

E. Conduct Of Hearing:

1. At the hearing, the parties will have the opportunity to present testimony, documents and exhibits and question witnesses.

2. The hearing officer shall tape record the proceedings and receive testimony and exhibits. Strict rules of evidence will not apply.

3. The hearing officer must receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. (Ord. 2004-06, 9-7-2004)

1-6-5: APPEAL OF HEARING OFFICER DECISION:

A. Appealable Matters: The hearing officer's decision shall be appealable to the city council only for the following matters:

1. An alleged failure to obtain a required permit, license, or other approval from the city council as required by this code;

2. An alleged violation of a permit, license, or other approval, or the conditions attached to the permit, license or approval, that was issued by the city council; or

3. An alleged violation of regulations governing a person or entity who has received a license issued by the city council.

B. Filing Appeal: An appeal to the city council of the hearing officer's decision must be made in writing on a form provided by the city for such an appeal and must be served on the city clerk by United States first class mail, postage prepaid, within ten (10) days after the date of the hearing officer's decision.

C. Hearing: A timely appeal will be heard by the city council after a notice of hearing is served by the city upon the appellant in person or by certified mail at lease ten (10) days in advance of the date of the hearing. The parties to the hearing will have an opportunity to present oral or written arguments regarding the hearing officer's decision.

D. Council Considerations And Decision: The city council shall consider the record, the hearing officer's decision, and any additional arguments before making a determination. The city council is not bound by the hearing officer's decision, but may adopt all or part of the hearing officer's decision. The city council's decision may be voted upon and given at the hearing or may be given in writing within fifteen (15) days of the hearing.

E. Failure To Appear: The failure of the appellant to appear in front of the city council or participate in the appeal constitutes a waiver of the violator's right of appeal and an admission of the violation. The council may waive the result upon good cause shown. The determination of a showing of good cause shown shall be made solely at the discretion of the city council, but does not include forgetfulness and intentional delay. (Ord. 2004-06, 9-7-2004)

1-6-6: FAILURE TO PAY:

A. Late Charge: In the event a person charged with a code offense fails to pay the civil penalty and correct or abate the code offense for which a citation was issued within the prescribed time, a late charge shall be imposed thereon as established in section 3-1-3 of this code for each seven (7) days the civil penalty remains unpaid and the code offense remains uncorrected or unabated beyond the due date. (Ord. 2004-06, 9-7-2004; amd. Ord. 2017-01, 1-3-2017)

B. Responsibility For Charges; Authority Of City To Collect: An unpaid civil penalty and accrued late charges will constitute a personal obligation of the person(s) to whom the citation was issued, and the city shall have the right to collect such unpaid civil penalty and accrued late charges, together with the city's costs and reasonable attorney fees, in criminal or civil proceedings.

C. Charges A Lien: Pursuant to Minnesota statutes sections 429.101 and 514.67 and other applicable law, a lien in the amount of the civil penalty and any accrued late charges may be assessed against the property where the code offense occurred and collected in the same manner as taxes. Any such assessment shall not preclude the city from issuing additional citations for a continuing code offense, nor shall it preclude the city from making additional assessments against the same property resulting from a continuing or new code offense.

D. Suspension Or Revocation Of License Or Permit: The city may suspend or revoke a license or permit or other approval associated with the code offense if the civil penalty and accrued late charges are not timely paid. (Ord. 2004-06, 9-7-2004)

1-6-7: SUBSEQUENT VIOLATIONS:

A. Second Violation: If a second citation for a code offense is issued by the city to the alleged violator and/or owner of the property upon which the violation has occurred within twenty four (24) months of the issuance of a previous citation for the same code offense, the civil penalty shall increase as established in section 3-1-3 of this code.

B. Third Violation: If a third citation for a code offense is issued by the city to the alleged violator and/or the owner of the property upon which the violation has occurred within twenty four (24) months of the issuance of a previous citation for the same code offense, the civil penalty shall increase as established in section 3-1-3 of this code.

C. Fourth Violation: If a fourth citation for a code offense is issued by the city to the alleged violator and/or the owner of the property upon which the violation has occurred within twenty four (24) months of the issuance of a previous citation for the same code offense, the civil penalty shall increase as established in section 3-1-3 of this code. (Ord. 2004-06, 9-7-2004; amd. Ord. 2017-01, 1-3-2017)

CHAPTER 7

CITY OFFICERS AND EMPLOYEES

SECTION:

1-7-1: Workers' Compensation

1-7-2: Reimbursement And Advances For Expenses

1-7-1: WORKERS' COMPENSATION:

Pursuant to Minnesota statutes section 176.011, subdivision 9, clause 6, the elected officials of the city and those municipal officers (mayor and council members) appointed for a regular term of office are hereby included in the coverage of the Minnesota workers' compensation act [1]. (Ord. 1989-1, 3-6-1989)

Notes

1 1. MSA § 176.001 et seq.

1-7-2: REIMBURSEMENT AND ADVANCES FOR EXPENSES:

A. Authorization: Pursuant to Minnesota statutes and this section, the elected and appointed officials and the employees of the city are entitled to reimbursements and advances for expenses related to the specific business of the city and will be reimbursed or advanced the appropriate dollar amounts in accordance with this section and the resolutions passed specifying the amounts allowed to be paid therein.

B. Application Of State Regulations: No provision of this section or resolutions designated by the city council related to the topic of this section will supersede provisions of the Minnesota bureau of mediation services approved bargaining unit agreements that contain provisions related to the topic of this section that are different. Approved bargaining unit agreements that specify reimbursement policies will be followed, and this section will apply in the absence of reimbursement provisions.

C. Definitions:

ADVANCES: Dollar amounts issued prior to incurring the expense and are to be used to defray the costs related to the purpose of the advance and at no time are to be used for any other purpose.

EXPRESS AUTHORIZATION OF THE CITY: Receiving the department head/supervisor approval prior to incurring the expense for items in the current approved budget and in concurrence with the city administrator. For expenses not authorized in the budget, the city administrator must approve and shall require city council approval.

REIMBURSEMENT: The process of receiving payment for expenses incurred in the course of doing city business and are permitted under this section and Minnesota statutes as items that can be repaid for justified city expenses.

D. Reimbursements Specified: City officials and employees shall be reimbursed as follows:

1. Mileage: When required to use their own vehicles for attending meetings, conferences, seminars, judicial proceedings or in the course of normal city work, they shall be reimbursed at the current internal revenue service (IRS) rate.

2. Meals: When working or on city business and at the express authorization of the city, they shall receive up to a maximum daily reimbursement or specified meal allowance as designated in a resolution of the city council.

3. Lodging: When on city business and at the express authorization of the city, they shall be reimbursed for the actual cost of hotel/lodging based upon single occupancy room charges or as designated in a resolution of the city council.

4. Transportation: When on city business and at the express authorization of the city, they shall be reimbursed for coach/economy fares for airlines. Other forms of transportation will be reimbursed and computed in a manner in the city's best, interest, and the most reasonable method of transportation for cost shall be used.

5. Telephone Calls: Telephone calls made specifically for city business, when city telephones are not available, will be reimbursed based on actual charges incurred. City telephone credit cards will be used when practical and will only be used when the city telephone lines are not available. Personal telephone calls will not be reimbursed.

6. Laundry And Dry Cleaning: Laundry and dry cleaning costs will only be reimbursed at the express authorization of the city, and if such a reimbursement is permitted, it will be as designated in a resolution of the city council.

7. Parking And Toll Charges: Parking and toll charges will be reimbursed for city business based on actual charges at the express authorization of the city.

8. Other Special Expenses: Expenses not elsewhere authorized in this section that are incurred on or for city business at the express authorization of the city shall be reimbursed based on the actual charges and/or as designated in a resolution of the city council.

E. Advances: Upon the express approval of the city for the conduct of its business, elected and appointed officials, and employees of the city may request an advance based on a completed advance estimate of the anticipated total expenses to be incurred in the course of conducting city business. An advance cannot exceed the anticipated expenses and may be advanced as required prior to the anticipated expense being incurred. Payment of advances is according to normal city policy on payments.

F. Procedures:

1. All claims for expense reimbursement shall be submitted to the city with the appropriate paid receipts for a particular item, or if the claimant is unable to obtain a receipt, the claimant must submit a statement certifying that the claim for that item is accurate.

2. In the case of an advance, any amounts not advanced will be reimbursed according to this section, and any overpayments of an advance will be returned within ten (10) calendar days upon returning to the city with a claim submitted verifying the proper use of city funds.

3. All other claims for reimbursement will be submitted within thirty five (35) days of returning to the city and will be paid as required by normal city policy for claims payment. (Ord. 1995-6, 2-6-1995; amd. 2005 Code)

ARTICLE A. CITY ADMINISTRATOR

SECTION:

1-7A-1: Appointment; Term Of Office; Removal

1-7A-2: Qualifications

1-7A-3: Duties And Responsibilities

1-7A-4: May Serve Other Positions

1-7A-5: Absence Or Vacancy In Office

1-7A-6: Contract For Services

1-7A-1: APPOINTMENT; TERM OF OFFICE; REMOVAL:

A. The city administrator shall be chosen by the city council on the basis of training, experience and administrative qualifications. The city administrator shall be appointed for an indefinite period of time by a majority of the city council.

B. Unless otherwise modified by the provisions of this article or by the terms of a written contract, the city administrator shall be an "at will" employee. (Ord. 1997-12, 9-8-1997; amd. 2005 Code)

1-7A-2: QUALIFICATIONS:

A. The city administrator must have the ability to plan development within the city, to collect materials and to be able to analyze that material for reporting to the city council, and to conduct and implement studies as to procedures, operations, and organization. The city administrator will have as minimum qualifications: four (4) year BA/BS degree in business administration, public administration or a related area and/or four (4) years of directly related work experience in a local government environment; knowledge and/or abilities which, in the opinion of the city council, qualifies the person for the position.

B. The city administrator must have considerable knowledge of municipal government operation, proper procedures, public relations, finances, purchasing and all administrative requirements for proper municipal operation. The city administrator shall have knowledge of, or ability to acquire full knowledge of, laws affecting the city. The city administrator shall have the ability to provide harmonious relations with municipal employees and the general public, shall have the ability to plan development, collect materials and analyze for reporting, and shall conduct and implement standards of procedure, operation and organization. (Ord. 1997-12, 9-8-1997)

1-7A-3: DUTIES AND RESPONSIBILITIES:

The duties and responsibilities of the city administrator shall be as follows:

A. Subject to city council regulations and applicable laws, the city administrator shall control and direct the administration of municipal affairs.

B. The city administrator shall see that all laws, ordinances and resolutions of the city are enforced.

C. The city administrator shall supervise the activities of all municipal department heads and personnel of the city in the administration of municipal policy with authority to effectively recommend their employment or removal.

D. The city administrator shall attend and participate in all meetings of the city council, shall be responsible for the preparation of the city council agenda, and shall recommend to the city council such measures as may be deemed necessary for the welfare of the citizens and the efficient administration of the city. The administrator may attend board, commission, or committee meetings as desired or as directed by the city council.

E. The city administrator is responsible for the preparation of the EDA agendas and may serve as the executive director.

F. The city administrator shall be responsible for the preparation of the annual fiscal budget and capital improvement plan for the city council. The city administrator shall maintain financial guidelines for the city within the scope of job responsibilities, submit reports to the city council on the financial condition of municipal accounts and make sure the annual financial statement is prepared in accordance with Minnesota statutes.

G. The city administrator shall handle all personnel matters for the city in conjunction with policies established by the city council. The city administrator shall recommend terms and conditions of employee labor contracts for presentation to the city council.

H. The city administrator shall represent the city at official functions as directed by the city council and maintain good public relations with the citizens of the community.

I. The city administrator shall act as the chief purchasing agent for the city and be responsible for making all purchases in accordance with the approved municipal budget and purchasing ordinances [1] . The city administrator shall have the authority to sign purchase orders for routine services, equipment and supplies for which the cost does not exceed five thousand dollars ($5,000.00). All claims resulting from orders placed by the city shall be audited for payment by the city council. The city administrator shall negotiate contracts for merchandise, materials, equipment or construction work for presentation to the city council.

J. The city administrator shall coordinate municipal programs and activities as directed by the city council and shall monitor all consultant and contract work performed for the city.

K. The city administrator shall work in cooperation with the city council's appointed attorney, engineer and other outside consultants.

L. The city administrator shall prepare news releases and develop and discuss public relations with all concerned as required.

M. The city administrator shall be informed regarding federal, state and county programs which affect the city. The city administrator shall consult with officials of both public and private agencies as may be required.

N. The city administrator shall inform the city council on matters dealing with the administration of the city and prepare and submit to the city council for adoption an administrative code encompassing the details of administrative procedures.

O. The city administrator shall be required to take an oath of office and shall be bonded, at city expense, through a position bond or equivalent which will indemnify the city.

P. The city administrator shall supervise, maintain or coordinate with the city clerk for the following:

1. A minute book noting therein all proceedings of the city council.

2. An ordinance book to record at length all ordinances passed by the city council.

3. An account book where all money transactions of the city are maintained, including the dates and amounts of all receipts and the person from whom the money was received, and all orders drawn upon the treasurer with their payee object.

4. Ordinances, resolutions and claims considered by the council need not be given in full in the minute book if they appear in other permanent records of the administrator and can be accurately identified from the description given in the minutes. The city administrator may act as the clerk or deputy clerk of the city, may be custodian of its seal and records, may sign official papers, may post and publish such notices, ordinances and resolutions as may be required and shall perform such other appropriate duties as may be imposed by the council. In case of the city administrator's absence from the city or disability, the council may appoint a deputy city administrator, if there is none, to serve during the absence or disability. The deputy may discharge any of the duties of the city administrator; except, that said deputy shall not be a member of the council. The council may discharge the duties of city administrator without appointing a deputy city administrator.

5. The city administrator shall coordinate a calendar of expiration of all developers' letters of credit.

Q. The city administrator shall have the duties of the city treasurer.

R. The city administrator shall perform such other duties as may be prescribed by law or required by ordinance or resolution adopted by the city council. (Ord. 1997-12, 9-8-1997; amd. 2005 Code)

Notes

1 1. See title 3, chapter 3 of this code.

1-7A-4: MAY SERVE OTHER POSITIONS:
The city council may appoint the city administrator to serve as the city clerk, deputy city clerk and other positions as may be required from time to time at its discretion through the use of a resolution of the council. (Ord. 1997-12, 9-8-1997)

1-7A-5: ABSENCE OR VACANCY IN OFFICE:
In the absence of or temporary vacancy in the position of city administrator, the title of administrator and/or city administrator as written in all ordinances, resolutions, and/or motions adopted/passed by the city council shall be replaced by a person or position as designated by resolution. (Ord. 1997-12, 9-8-1997; amd. 2005 Code)

1-7A-6: CONTRACT FOR SERVICES:
The city administrator shall be an employee of the city, with appointment by resolution. At the city's discretion, the administrator may be employed through the use of a contractual employment agreement. Terms of such a contract will comply with state law, including pay, equity and the provisions of this article. (Ord. 1997-12, 9-8-1997)

CHAPTER 8

EMERGENCY HEALTH REGULATIONS

SECTION:

1-8-1: Temporary Suspension Of Applicable Zoning Regulations Relating To Outdoor Dining; Temporary Administrative Waiver Of Expansion Of On-Sale Liquor License Sales During The COVID-19 Public Health Emergency

1-8-1: TEMPORARY SUSPENSION OF APPLICABLE ZONING REGULATIONS RELATING TO OUTDOOR DINING; TEMPORARY ADMINISTRATIVE WAIVER OF EXPANSION OF ON-SALE LIQUOR LICENSE SALES DURING THE COVID-19 PUBLIC HEALTH EMERGENCY:

A. Purpose. This interim ordinance establishing a temporary suspension of applicable zoning regulations relating to outdoor dining is intended to assist businesses that have been impacted by the temporary business closures relating to COVID-19 pandemic. Minnesota Governor Walz issued Executive Order 20-01 declaring an emergency due to the COVID-19 pandemic, which has been extended by Executive Orders 20-35, 20-53 and 20-56 (collectively, the "Governor's Orders"). The City Council declared a local emergency due to COVID-19 pandemic on March 30, 2020 by adopting Proclamation No. 2020-01. The Governor's Orders have prohibited sit-down, dine-in service at restaurants, which has threatened the economic health of many hospitality businesses and the vitality of Albertville's businesses. Executive Order No. 20-56 outlines plans for bars and restaurants to open on June 1, 2020, for outdoor service so long as certain conditions, including social distancing, are maintained to prevent the spread of COVID-19. The city administers zoning within the city and may regulate land use as part of the city's zoning authority. Minnesota Statute § 462.355, Subd. 4, provides the city with authority to adopt an interim ordinance to temporarily regulate activity. Under the current city Zoning Code, parking signage, and other standards are imposed based upon characteristics of the use. Reduced occupancy capacities will result in excess parking supplies under the city Zoning Code. The city wishes to provide dining establishments with added flexibility to establish temporary outside seating in available parking areas, sidewalks or other adjacent open spaces. The city will examine the effects of additional outdoor dining and modified parking supplies as a goal of this Interim Ordinance. The temporary expansion of outdoor dining has the potential to create impacts on circulation and traffic, firefighting, alcohol sales and consumption, and various other areas of local regulation. There is a need for an interim ordinance to be adopted for the purpose of protecting the planning process and the health, safety, and welfare of the citizens of the City until such a study has been completed.

B. Scope of interim ordinance. The Interim Ordinance shall be applicable to all restaurants located in the Commercial and PUD zoning districts as well as licensees holding On-Sale Liquor Licenses. This Interim Ordinance temporarily suspends zoning regulations related to parking supply, temporary signage, and the need to seek zoning permits (such as variances or conditional use permits) for temporary outdoor dining areas, subject to the terms of this Interim Ordinance, and administrative regulations which the City finds necessary for the protection of public health, safety, and welfare.

C. Temporary outdoor dining permit. Temporary Outdoor Dining Permits ("TODP") to be granted allowing expansion of outdoor dining onto sidewalks and/or parking lots. Business owners and licensees holding on-sale liquor licenses may submit an application to the City which shall be accompanied with the following:

1. Site Plan showing the premises, including the location of the existing indoor facility, as well as the space proposed to be occupied by the temporary outdoor dining. The temporary outdoor dining area shall be physically enclosed with a temporary fence and if liquor is to be served or consumed in the outdoor dining area, such area must be contiguous to the building containing the indoor licensed facility. The location of the dining area shall not interfere with safe on-site traffic circulation.

2. Site Plan labeling shall illustrate table and seating areas, pedestrian access ways, staff access ways, wait stations, trash receptacles and other uses of the outdoor spaces. The pedestrian access ways shall be designed to be disability accessible.

3. Operations plan that describes the means of complying with the State of Minnesota guidelines for social distancing, dining area capacity, hours of operation, other safety and sanitation measures taken.

4. Seating capacity, in numbers of patrons that the TODP will serve, not to exceed fifty (50) people.

5. Structures, temporary or otherwise, proposed as a part of the TODP operation.

6. Barrier placement and materials.

7. Parking spaces remaining after establishment of the TODP that are typically available for use of the business.

8. Available disability parking locations, maintaining compliance with disability parking requirements of the State.

9. Location of building fire connection, and evidence of continued access.

10. Trash handling equipment and process.

11. Authorization from property owner, if different from business owner.

12. COVID-19 Preparedness Plan.

13. Representation that applicant intends to comply with Governor's Orders.

D. Procedure. The City Administrator or Administrator's designee shall review the application against the criteria of this section. If approved, the City, the City Administrator or Administrator's designee shall provide two (2) copies of the written TODP outlining conditions of approval. Said TODP shall be signed by both the City Administrator or Administrator's designee and the applicant as an understanding of approval. One (1) copy shall be given to the applicant and one (1) copy shall be kept on record at the city.

E. Denial. In the event the application fails to meet the purpose and intent or the performance standards of this section, the City Administrator or Administrator's designee shall provide the applicant a written notice of denial. The applicant may appeal any administrative denial to the City Council or pursue other available remedies through this Code.

F. Expanded liquor service area. The city may administratively approve a temporary expansion of liquor license to allow for an expanded liquor service area to on-site liquor license with an approved TODP consistent with the limits and terms of this Interim Ordinance.

G. Performance standards. The City Council authorizes the City Administrator to promulgate regulations for applications for TODP and operational requirements related to temporary outdoor dining areas authorized under this Interim Ordinance including but not limited to:

1. The regulations shall address alterations to the use of the subject properties, including the use of private parking spaces, green spaces, or other potential use areas, and the provision of support facilities that may be appropriate under the temporary conditions applying to the property.

2. The regulations shall address additional temporary signage to be allowed during the period this Interim Ordinance is in effect.

3. The regulations shall take into account other applicable codes and public health and safety considerations, including alcohol licensing, fire codes and protections, and other related building and zoning regulations.

4. The regulations may account for potential use of public spaces for Temporary Outdoor Dining Permits, including public parking lots, rights of way, and open spaces, and how the city may accommodate and regulate the private use of those spaces, if deemed reasonable and appropriate.

5. Except where specifically noted herein, this Interim Ordinance shall not be construed to waive or suspend any portions of the applicable Building, Electrical, Plumbing, Fire, or Liquor Sales ordinances currently in effect.

H. Process and Standards for review of a TODP application.

1. The applicant's request shall be consistent with the allowances and intent of the Governor's Orders.

2. The applicant shall provide evidence of continued firefighting access, and any requirements of State or local public safety recommendations.

3. Each TODP location shall be entitled to up to two additional temporary signs during the duration of the TODP, each sign to be located on the premises of the applicant, and up to 32 square feet in area.

4. Each TODP applicant shall cooperate with public safety officials in the application for said permit, and any modifications or changes recommended as a part of the Permit review process.

5. If the applicant for a TODP is seeking the use of public land, the city will balance the request against other competing uses, including other applicant requests, to ensure reasonable access to public and private facilities, public safety, and other public uses, including parking, open space, or public improvements. The city reserves the right to consider requests for public property use at its sole discretion and to require a lease for the use of such space.

6. The city will expedite review and consideration of each TODP application, understanding the nature of the current emergency, and the need for local businesses to recover economically as soon as possible.

I. Compliance with all other applicable laws. Any business in receipt of an approved TODP under this Interim Ordinance shall be separately responsible for obtaining any other permits or licenses necessary to legally operate said business as proposed, including liquor licensing, Health Department approvals, or any other approval.

J. Compliance with Governor's Orders. Business owners shall comply with the terms of the Governor's Orders, including, but not limited to, the following provisions:

1. Develop and implement a COVID-19 Preparedness Plan;

2. Open for outdoor dining or curbside pickup/delivery only.

3. Ensure at least 6 feet of distance with maximum on-premises capacity to no more than 50 persons.

4. Limit table service to 4 persons, or 6 if part of one family unit.

5. Require reservations; do not allow walk-in customers.

6. Require masks or face shields to be worn by workers and strongly recommend masks for all customers.

7. Establish regular disinfection routine and train workers.

K. Authority to amend regulations. The City Council retains the authority to modify or amend the TODP regulations as a matter of course as they pertain to properties in general, or on a case-by-case basis to ensure equitable application of the purposes of this Interim Ordinance.

L. Authority to amend TODP. The City Council shall have the authority to modify or amend any approved TODP to promote the public health, safety, and welfare, including termination of said TODP.

M. Authority to terminate TODP. The City Council shall have the authority to terminate this Interim Ordinance at any time and for any purpose, including changes to the State of Minnesota's Emergency Order.

N. Duration. This Interim Ordinance shall remain in effect until the adoption of the official controls contemplated herein or until further Executive Order from the Governor which will allow bars and restaurants to re-start indoor food and beverage services, whichever occurs first, after which occurrence this ordinance shall lapse, unless properly extended pursuant to state law.

(Ord. 2020-03, 6-1-2020)

TITLE 2

BOARDS AND COMMISSIONS

CHAPTER 1

COMPENSATION

SECTION:

2-1-1: Authorization

2-1-2: Monthly Compensation Established By Resolution; Increases

2-1-1: AUTHORIZATION:
Pursuant to Minnesota statutes and this chapter, the city council is prescribing the amount of compensation it is establishing for payment to the city's boards, commission and committees. (Ord. 1995-9, 3-6-1995)

2-1-2: MONTHLY COMPENSATION ESTABLISHED BY RESOLUTION; INCREASES:
The city council is prescribing through this chapter that compensation shall be established by resolution of the city council in a fixed monthly amount with payment after the close of each calendar month. Further, the city council may establish a higher fixed monthly amount for the president, chair and/or presiding officer of the board, commission or committee to compensate them for the additional responsibilities and duties of the office. (Ord. 1995-9, 3-6-1995)

CHAPTER 2

PLANNING COMMISSION

SECTION:

2-2-1: Commission Established

2-2-2: Composition; Appointment; Removals

2-2-3: Terms Of Office; Vacancies

2-2-4: Oath Of Office

2-2-5: Organization And Meetings

2-2-6: Powers And Duties

2-2-7: Expenditures

2-2-8: Planning Commission Liaison

2-2-1: COMMISSION ESTABLISHED:
A planning commission for the city is hereby established. The commission shall be the city planning agency. (Ord. 2016-02, 5-2-2016; amd. Ord. 2020-02, 3-2-2020))

2-2-2: COMPOSITION; APPOINTMENT; REMOVALS:
The planning commission shall consist of five (5) members who shall be appointed by the city council and may be removed by a four-fifths (4/5) vote of the council.

A. Composition: The planning commission shall consist of five (5) members and a city council liaison.

B. Appointment: All planning commission members shall be appointed by the city council.

C. Removal/Absences:

1. Removal: The city council may remove a planning commissioner with a four-fifths (4/5) vote of the council.

2. Absences: Planning commissioners shall attend regularly scheduled meetings and special meetings scheduled two (2) weeks prior to a meeting date. A planning commission member may be excused from an individual meeting for reasons of illness, work, out of town trips, or other justifiable reason. To qualify as an excused absence, a planning commission member shall notify the city clerk of the expected absence at least four (4) days in advance of the meeting.

a. A planning commission member may be replaced upon three (3) unexcused absences, three (3) consecutive excused or unexcused absences, or four (4) absences in a calendar year.

b. If the planning commission member exceeds the aforementioned allowances for absences, the city council may move to replace said planning commission member. (Ord. 2016-02, 5-2-2016; amd. Ord. 2020-02, 3-2-2020)

2-2-3: TERMS OF OFFICE; VACANCIES:
Of the members of the commission first appointed, one shall be appointed for the term of one year, one for the term of two (2) years, one for the term of three (3) years and one for the term of four (4) years. Their successors shall be appointed for terms of four (4) years. Both original and successive appointees shall hold their office until their successors are appointed and qualified. Vacancies during the term shall be filled by the council for the unexpired portion of the term. (Ord. 2016-02, 5-2-2016; amd. Ord. 2020-02, 3-2-2020)

2-2-4: OATH OF OFFICE:
Every appointed member shall, before entering upon the discharge of his duties, take an oath that he will faithfully discharge the duties of his office. (Ord. 2016-02, 5-2-2016; amd. Ord. 2020-02, 3-2-2020)

2-2-5: ORGANIZATION AND MEETINGS:
A. Officers: The commission shall elect a chairman from among its appointed members for a term of one year, and the commission may create and fill such other offices as it may determine. The city clerk shall act as secretary of the planning commission but shall not be a member.

B. Meetings: The commission shall hold at least one regular meeting each month, unless no business is scheduled.

C. Rules, Records And Reports: The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which record shall be a public record.

D. Quorum: Three (3) members of the commission shall constitute a quorum. If a quorum of regular members is not present, the council liaison shall serve in place of the regular member with the powers and duties imposed on the regular member from the point in time of the roll call to determine the presence of a quorum and until the meeting is adjourned. (Ord. 2016-02, 5-2-2016; amd. Ord. 2020-02, 3-2-2020)

2-2-6: POWERS AND DUTIES:

A. Generally: The planning commission shall be the planning agency and shall have the powers and duties given such agencies generally by Minnesota statutes sections 462.351 through 462.364 and any amendments thereto. It shall also exercise the duties conferred upon it by this chapter.

B. Zoning Ordinances; Public Hearings: No zoning ordinances or amendments thereto shall be adopted by the council until a public hearing has been held thereon by the planning commission or the council upon notice as provided in Minnesota statutes section 462.357, subdivision 3. (Ord. 2016-02, 5-2-2016; amd. Ord. 2020-02, 3-2-2020)

2-2-7: EXPENDITURES:

Expenditures of the commission shall be within amounts appropriated by the city council for the purpose. (Ord. 2016-02, 5-2-2016; amd. Ord. 2020-02, 3-2-2020)

2-2-8: PLANNING COMMISSION LIAISON:

The city council shall appoint two (2) members of the council to be the primary and secondary planning commission liaisons. The liaisons shall attend the planning commission meetings. In the case that a quorum is not present, the planning commission liaison will serve as an alternate voting member on the planning commission. When a quorum is present, the liaison will not serve as a voting member on the planning commission. (Ord. 2016-02, 5-2-2016; amd. Ord. 2020-02, 3-2-2020)

CHAPTER 3

PARKS COMMITTEE

SECTION:

2-3-1: Establishment

2-3-2: Vision, Mission, And Purpose

2-3-3: Membership

2-3-4: Term Of Office

2-3-5: Vacancy

2-3-6: Officers

2-3-7: Compensation

2-3-8: Meetings

2-3-9: Quorum

2-3-1: ESTABLISHMENT:

A parks committee for the city is hereby established to serve as an advisory committee to the city council. (Ord. 2015-05, 6-15-2015)

2-3-2: VISION, MISSION, AND PURPOSE:

A. Vision: The vision of the parks committee is to create, sustain, and preserve excellent parks, trails, and open spaces to enhance the lives of current and future generations of Albertville residents.

B. Mission: The mission of the parks committee is to contribute vision, leadership, and recommendations to the Albertville city council for the best use and development of Albertville's parks, trails, and open spaces.

C. Purpose: The purpose for which this parks committee is organized shall be to work as a team to:

1. Study and determine the park, recreation, and open space needs of the city and serve as an advisory body providing recommendations to the city council on matters pertaining to the planning, programming, evaluating, and funding of park and recreation facilities and programs.

2. Recommend annual priorities to the city council, with reference to the city of Albertville master plan for parks, trails and open space, for the acquisition, development, operation, and maintenance of recreation areas, natural areas, facilities, and programs. The recommended annual plan for the ensuing fiscal year, together with an estimate of the cost thereof, shall be submitted no later than July 1 for the following calendar year.

3. Support the mission of the Albertville parks department. (Ord. 2015-05, 6-15-2015)

2-3-3: MEMBERSHIP:

A. Committee Structure: The city parks committee shall consist of six (6) members:

1. One Albertville city council member.

2. Five (5) citizen members.

All members must be Albertville residents and all shall have equal rights and privileges.

B. Appointment Of Members:

1. The city council shall directly appoint their representative.

2. The city council may appoint a city employee liaison to the committee.

3. The remaining members shall apply for the position according to the procedure in subsection C of this section.

C. Application Procedure:

1. Any vacancies shall be advertised in the official newspaper and notices shall be published on or at city resources as directed by the city council. Applicants will be asked to submit a letter of interest and include a resume.

2. All applications shall be submitted to the city clerk at the Albertville City Hall. The parks committee shall review all applications and make a

recommendation by majority vote to the city council for an appointment to the parks committee.

3. A letter of interest addressing the following information shall be submitted with a resume:

a. Please tell us why you are interested in applying.

b. Please tell us about your work experiences.

c. Please tell us about any prior or current civic involvement.

d. Please tell us about your educational experiences.

e. Please tell us about any "life experiences" that may help you fulfill a committee position.

f. Please tell us what time commitment you can provide your committee beyond regular meetings.

g. Please tell us what you think you can contribute.

h. Please disclose any affiliations that may be construed as a conflict of interest. (Ord. 2015-05, 6-15-2015)

2-3-4: TERM OF OFFICE:

A. Term And Term Limits: The term of the members shall be for two (2) years, and shall be staggered so that no more than three (3) members' terms expire in a given year. All regular terms shall expire December 31. Current members may submit a letter of interest indicating their interest in serving another term upon the expiration of the previous term.

To ensure that the terms are staggered, the charter members will have the following initial terms:

Council member	1 year term
Citizen A	2 year term
Citizen B	1 year term
Citizen C	2 year term
Citizen D	1 year term
Citizen E	2 year term

B. Early Dismissal: Any member of the parks committee who misses three (3) consecutive meetings per year, or acts in a manner inappropriate to the duties of the parks committee is subject to removal at the pleasure of the Albertville city council. (Ord. 2015-05, 6-15-2015)

2-3-5: VACANCY:

Any vacancy in the regular membership prior to term expiration shall be filled by the city council and such appointee shall serve for the remainder of the unexpired term. (Ord. 2015-05, 6-15-2015)

2-3-6: OFFICERS:

A. Appointments: Officers shall be appointed at the first regularly scheduled meeting of the new year. The parks committee shall appoint from its membership a chair, vice chair, and secretary.

B. Duties Of Chair: The chair shall preside at all meetings of the parks committee and shall have the duties normally conferred by parliamentary usage of such officers.

C. Duties Of Vice Chair: The vice chair shall act for the chair in his/her absence.

D. Duties Of Secretary: The secretary shall provide to the city clerk minutes and records of the parks committee. The city clerk shall keep the minutes and records, arrange proper and legal notice of hearings when necessary, attend to the correspondence of the committee, and other duties as are normally carried out by a secretary.

E. Public Works Supervisor: The public works supervisor shall serve as the city employee liaison to the parks committee. The public works supervisor shall assist with preparation of agendas, arrange proper and legal notice of hearings when necessary, and other duties as are normally carried out by a city employee representative. (Ord. 2015-05, 6-15-2015)

2-3-7: COMPENSATION:

See section 2-1-2 of this title. Per diem for special meetings will be subject to approval by the city council. (Ord. 2015-05, 6-15-2015)

2-3-8: MEETINGS:

A. Regular meetings will be held bimonthly or as needed. The meeting night shall be the fourth Monday of the month at eight o'clock (8:00) P.M. In the event of a conflict with holidays or other events, the chair may change the date with proper notice.

B. Special meetings may be called by the chair or any two (2) duly appointed members.

C. The committee may establish and appoint committees. These committees shall meet at the direction of the committee and shall report back to the committee.

D. All meetings shall be open to the general public. (Ord. 2015-05, 6-15-2015)

2-3-9: QUORUM:

A. A quorum consisting of a majority of duly appointed members shall be present at any meeting in which official action is taken. (Ord. 2015-05, 6-15-2015)

TITLE 3

CITY FINANCES

CHAPTER 1

GENERAL FINANCE PROVISIONS

SECTION:

3-1-1: Budget Calendar

3-1-2: Returned Check Fee

3-1-3: City Fees, Fines, And Rates Schedule

3-1-1: BUDGET CALENDAR:
Pursuant to Minnesota Statutes for the submission of budget, the City Council hereby adopts the calendar schedule set in the League of Minnesota Cities budget guide. (Ord. 1993-14, 10-18-1993; amd. 2005 Code)

3-1-2: RETURNED CHECK FEE:
A handling and processing fee for each returned check will be assessed, effective immediately. The handling and processing fee is established in section 3-1-3 of this chapter. Appropriate bank fees will be added to the returned check fee to be paid to the City. The City Council shall periodically review the fee and update the fee by ordinance when necessary. (Ord. 2017-01, 1-3-2017)

3-1-3: CITY FEES, FINES, AND RATES SCHEDULE:
A. Purpose: The purpose of this section is to formally establish the fees, fines, and rates (dollar amounts) to be charged by the City. Fees are subject to State Sales Tax where applicable.

B. Zoning Applications: Zoning applications shall consist of both a fee and escrow to be collected with the application. The fee is a nonrefundable charge for City administration. The escrow account is intended to cover City expenses related to engineering, planning, and legal expenses incurred in the processing of an application. The escrow is an estimate of costs. All applications include a written agreement between the City and the applicant whereby the applicant agrees to pay all applicable fees, charges, administrative, planning, engineering, and legal costs associated with the review and processing of any zoning application. If these expenses exceed the application escrow, the applicant shall be billed for these costs. If monies are not paid within thirty (30) days after the bill is sent to the applicant/landowner, the City will assess the aforementioned fees, charges, and/or expenses against the land subject to the development application.

PC = Plan check
SC = Surcharge based on PC value
$1.00 SC = Surcharge on flat fee permits

Section	Subject	Fee/Escrow/Penalty
Section	**Subject**	**Fee/Escrow/Penalty**
	Rentals - City Hall:	
	Damage deposit	100.00
	Full community room with kitchen - nonresident	$400.00 per 4 hour block + tax
	Full community room with kitchen - resident	$200.00 per 4 hour block + tax
	Key deposit	$10.00
	Kitchen only - nonresident	150.00 per event + tax
	Kitchen only - resident	75.00 per event + tax
	Multipurpose room with kitchen - civic group	1 4-hour block/month free Additional meeting $150.00 per 4 hour block + tax
	Multipurpose room with kitchen - nonresident	$300.00 per 4 hour block + tax
	Multipurpose room with kitchen - resident	$150.00 per 4 hour block + tax
	Upstairs - nonresident	$150.00 per 4 hour block + tax
	Upstairs - resident	$75.00 per 4 hour block + tax
	Use of audio/visual equipment	$30.00 (cart only) - multipurpose room + tax $50.00 - full community room + tax
	West conference room - nonresident	$20.00 per hour + tax (2 hour minimum)
	West conference room - resident	$10.00 per hour + tax (2 hour minimum)
	Rentals - parks:	
	Adult fall/winter leagues	$100.00/team per season + tax
	Adult winter tournaments	$100.00 per rink per day + tax
	Central Park shelter - damage deposit	$100.00
	Central Park shelter key deposit	$10.00
	Central Park shelter - nonresident	$150.00 per day + tax
	Central Park shelter - resident	$100.00 per day + tax
	Field damage deposit	$100.00
	Field rental - nonresident	$150.00 per field per day + tax
	Field rental - resident	$100.00 per field per day + tax
	Key deposit - shelter only	$10.00
	Youth baseball/softball tournaments	$25.00 per field per day
	Adult summer leagues	$175.00/team per season + tax
	Adult summer tournaments	$100.00 per field per day + tax
	Services:	
	Copies - $8\frac{1}{2}$ x 11	$ 0.25 per page + tax
	Faxes (send or receive)	0.25 per page + tax
	Filing fee for City Council/Mayor	15.00

	Maps:	
	Street or zoning - 2' by 3'	5.00 per page + tax
	Street or zoning - 11" by 17"	0.50 per page+ tax
	Snowplowing	$100.00 fee + $50.00/hour per man hours and $50.00/hour per piece of equipment (1 hour minimum) + tax or full cost of contract work + tax
	Special assessment search	$25.00 per property search
	Administration:	
1-4-1A	Misdemeanor penalties	Not more than $1,000.00
1-4-1A	Petty misdemeanor penalties	Not more than $300.00
1-5-2C1	Fee for special meeting	$150.00
1-6-2	Code offense	200.00
1-6-6A	Failure to pay late charge	15% for each 7 days
1-6-7A	Second violation	25% over penalty amount
1-6-7B	Third violation	50% over penalty amount
1-6-7C	Fourth violation	100% over penalty amount
	City finances:	
3-1-2	Returned check fee	$25.00
3-4-3	Filing for deferral status	$25.00
3-5-1C 3-5-2A1a	Burglar and false alarm:	
	First - third	Free
	Fourth	$200.00
	Fifth	250.00
	Sixth	300.00
	Seventh	350.00
	Eighth	400.00
	Ninth	450.00
	Tenth	500.00
3-5-2A	Fire protection/emergency response/ chemical/hazardous materials spill	Hourly rate for personnel and equipment per Wright County Fire Chief's Association Joint Cooperative Agreement for Use of Fire Personnel and Equipment
3-5-2A2	ATV/UTV with water tank	Hourly rate for personnel and equipment per Wright County Fire Chief's Association Joint Cooperative Agreement for Use of Fire Personnel and Equipment
	Command vehicle/utility or grass truck	
	Engines - all types	
	Extra personnel	
	Fire Investigation Team (County- wide response team)	
	Heavy rescue/rescue/ambulance	
	Ladder/aerial	
	Special Response Unit (County- wide response team)	
	Water tender	
3-5-2B	Fire watch	Hourly rate for personnel and equipment per Wright County Fire Chief's Association Joint Cooperative Agreement for Use of Fire Personnel and Equipment
3-5-2C	Preventative fire watch	Hourly rate for personnel and equipment per Wright County Fire Chief's Association Joint Cooperative Agreement for Use of Fire Personnel and Equipment
3-5-2D	Car fires/accidents (nonresidential)	Hourly rate for personnel and equipment per Wright County Fire Chief's Association Joint Cooperative Agreement for Use of Fire Personnel and Equipment
	Business regulations:	
4-1-6A	Liquor license:	
	Consumption and display	State license fee
	Off-sale intoxicating liquor	$150.00 per year
	Off-sale 3.2 malt liquor	100.00 per year
	On-sale intoxicating liquor	3,300.00 per year
	On-sale taproom	210.00 per year
	On-sale 3.2 malt liquor	100.00 per year
	On-sale wine	110.00 per year
	Sunday on-sale intoxicating liquor	200.00 per year
	Temporary intoxicating on-sale (1 - 4 days)	100.00 per event
	Temporary 3.2 malt on-sale	10.00 per day
	2 am license	State license fee
4-1-6A	Background investigation fee (new or renewal)	100.00
	Revocation/suspension of liquor license:	

4-1-15A	Liquor violation - first	500.00
	Liquor violation - second	1,000.00
	Liquor violation - third	$1,500.00 + 2 day suspension of license
	Liquor violation - fourth	$2,000.00 + a suspension of not less than 5 but no more than 60 days or revocation as determined by City Council
4-3-1D	Bingo	25.00 annually
4-3-2B2	Charitable gambling investigation fee	100.00
4-4-3C	Canvasser	$50.00 per 90 days consecutive
	Transient business, peddling, soliciting	$50.00 per individual per 90 days consecutive
4-5-7	Massage enterprise license/investigate	$300.00 initially + $50.00 annually
4-5-7	Massage therapist (individual) practitioner	$50.00 annually
4-6-24C	Unauthorized cable connections and modifications	Not less than $20.00 and the costs of the action nor more than $500.00 and the costs of the action
4-7-2B2	Waste Hauler	$150.00
4-8-2B	Special Event Permit	$50.00 application fee $25.00 review fee
4-9-3C	Mobile food unit	$75.00 annually, $20.00 1 - 3 day event
	Health and sanitation:	
5-3-3C	Mowing/weed elimination	$150.00 fee + $50.00/hour per man hours and $50.00/hour per piece of equipment (1 hour minimum) + tax or full cost of contract work + tax
5-3-4	Grass and weeds violation	Petty misdemeanor
5-4-5A, B	Open burning violation	Petty misdemeanor or misdemeanor
5-5-2A1	Excessive motor vehicle noise	Misdemeanor
5-5-3A2	Temporary major outdoor music permit	$50.00 per event
5-5-3B2	Minor live outdoor music event	50.00 annual permit
5-6-3A	Public property vegetation permit	25.00 per event
5-6-3E	Unauthorized public property tree work	$100.00 fee + $50.00/hour per man hours and $50.00/hour per piece of equipment (1 hour minimum) + tax or full cost of contract work + tax
5-6-5A3	Private property pruning	
5-6-5B3	Private property diseased and infected	
	Public safety:	
6-2-14A	Dog impoundment - first	50.00 + boarding fees
	Dog impoundment - second	100.00 + boarding fees
	Dog impoundment - subsequent	200.00 + boarding fees
6-2-16B, C	Commercial kennels	50.00 annually
6-4-1D2a - D2d	Curfew:	
	Minors - first offense	$75.00 + costs of prosecution
	Parents - first offense	$75.00 + costs of prosecution
	Minors - second offense within 6 months	$300.00 + costs of prosecution
	Parents - second offense within 6 months	$300.00 + costs of prosecution
	General Traffic Provisions	
7-1-2	Operation of vehicle in excess of 12,000 pounds on 57th Street, 55th Street, 54th Street, 51st Street from Main Avenue NE to Barthel Industrial Drive NE - and 62nd Street from Lakeshore Drive W to 63rd Street NE	Misdemeanor
7-3-6	Operation of snowmobiles and recreational vehicles in violation of Section 7-3-6	Misdemeanor or Petty Misdemeanor + costs of prosecution
7-3-7A1b	Operation of motorized golf cart or ATV on public street permit fee	$50.00 per three years
	Right-of-way fees and charges:	
8-2-8C1	Small Wireless Facility Permit	Engineer Estimate
8-2-8L	Collocation rent on City structure	150.00
	Maintenance cost associated with collocation	25.00
8-2-8L	Electrical service fee	$73.00 per radio node less than or equal to 100 watts $182.00 per radio node over 100 watts The actual cost of electricity if actual cost exceeds the foregoing
8-2-11	Registration fee	$75.00/hour (2 hour minimum)
	Excavation permit fees - hole[1]:	
	Verification:	
	a. Plan review	$75.00 per hour
	b. Inspection:	

8-2-11	Location before work	60.00 per hour
	Compliance during work	60.00 per hour
	Completion after work	60.00 per hour
	Reinspection	60.00 per hour
	c. Testing result review:	
	Compaction	60.00 per hour
	Material	60.00 per hour
	d. Mapping:	
	Review data	60.00 per hour
	Transfer to AutoCad	60.00 per hour
	Insert to overlay to tie in	60.00 per hour
8-2-11	Excavation permit fees - emergency hole[1]:	
	Administration	75.00 per hour
	Inspection after completion	60.00 per hour
8-2-11	Excavation permit fees - trench[1]:	
	Administration	75.00 per hour
	Verification:	
	a. Plan review	75.00 per hour
8-2-11	b. Inspection:	
	Location before work	60.00 per hour
	Compliance during work	60.00 per hour
	Completion after work	60.00 per hour
	Reinspection	60.00 per hour
	c. Testing result review:	
	Compaction	60.00 per hour
	Material	60.00 per hour
	d. Mapping:	
	Review data	60.00 per hour
	Transfer to AutoCad	60.00 per hour
	Insert to overlay to tie in	60.00 per hour
8-2-11	Obstruction permit fee[1]:	
	Administration	75.00 per hour
	Recording	75.00 per hour
	Review	$100.00 minimum base + $75.00/hour
8-2-11	Inspection[1]:	
	Compliance during work	$60.00 per hour
	Completion after	60.00 per hour
8-2-11	Permit extension fee[1]:	
	Administration	75.00 per hour
	Recording	75.00 per hour
	Review	75.00 per hour
8-2-11	Delay penalty:	
	Administration	75.00 per hour
	Water and sewer access charges:	
9-1-2B1	Residential single and multiple dwellings SAC	$4,600.00 per dwelling unit
9-1-2B2a	Nonresidential SAC	$4,600.00 per SAC unit
9-1-2C1	Residential WAC	$950.00 per dwelling unit + joint powers fee
9-1-2C2a	Nonresidential WAC	$950.00 per dwelling unit + joint powers fee
9-1-2-1D	Water trunk access	$ 1,925.00 per gross acre
9-1-2-2D	Sanitary sewer trunk access	2,055.00 per gross acre
	CSAH 37 Special District:	
9-1-2-3D1	Municipal water trunk access	6,408.00/acre + interest per code
9-1-2-3D2	Municipal water trunk access - supplemental connection	14,934.86
9-1-2-4D1	Municipal sewer trunk access	$16,920.00 per acre + interestper code
9-1-2-4D2	Municipal sewer trunk access - supplemental connection	$11,266.65
9-2-5B	Water meter - residential	480.00
	Water meter - 1"	660.00
	Water meter - 1.5" T10	1,280.00

	Water meter - 2" T10	1,520.00
9-2-10A	Water connection and inspection	100.00
9-2-10B	Water base rates - 0 - 3,333 gallons	8.22
	Water usage rates - 3,334 - 6,667 gallons	$0.87 per 1,000 over 3,334 and up to 6,666
	Water usage rates - 6,668 - 11,667 gallons	$0.93 per 1,000 over 6,668 and up to 11,667
	Water usage rates - over 11,668 gallons	$0.96 per 1,000 over 11,668
	Water joint powers portion (JP District)	Per water joint powers fee schedule
9-2-10C	Water shutoff notice	$20.00
9-2-10D	Water shutoff and reconnection fee	35.00 per time
9-3-3A	Sewer connection and inspection/reinspection	100.00 per occurrence
9-3-3B	Sewer base rate - 0 - 5,000 gallons	24.19
	Sewer usage rate: Per 1,000 over 5,000 gallons	4.25
9-3-3D	Delinquent account and utility fee payment	10% late charge subject to a minimum charge
9-4-6D	Private sewer system permit	300.00
9-4-8A2	Private sewer system inspection	100.00 per inspection
	Stormwater utility charges:	
9-5-4B	Connection charge - single-family	500.00 per unit
	Connection charge - multiple- family	400.00 per unit
	Connection charge - all other construction	1,500.00 per gross acre
9-5-5A	Stormwater rates:	
	Residential	4.00 monthly
	Nonresidential 0 - 5% impervious	$6.29 per acre monthly
	Nonresidential 6 - 35% impervious	$11.85 per acre monthly
	Nonresidential 36 - 65% impervious	$16.66 per acre monthly
	Nonresidential 66 - 100% impervious	$29.98 per acre monthly
	Golf courses	$1.00 per acre monthly
9-5-5C	Delinquent stormwater utility fee payment	10% late charge subject to a minimum charge
9-6-3B5	Noncompliance surcharge for sewer discharge	$100.00 per month added to sewer bill
9-7-2D	Stormwater pond water appropriation fee	$150.00
	Recycling fee	Jan-May 2023: $4.53 June 2023-May 2024 $4.64
	Building and development regulations:	
10-1-1C	Commercial certificate of occupancy (temporary)	$50.00
	Escrow for new residential:	
10-1-3A1b	Fee for temporary certificate of occupancy (single family dwelling)	50.00
10-1-3D1 - D6	Administration fee	100.00
	Site improvement escrow	2,500.00
	Fee per tree escrow	250.00
	Engineer review as built survey fee	75.00
	Engineer review survey fee	75.00
	Engineering review - revised survey fee	75.00
	Landscape reinspection fee	25.00
	Reinspection fee	50.00
10-2-3A	Building permit fees - valuation:	
	$1.00 to $500.00	50.00
	$501.00 to $2,000.00	$50.00 for the first $500.00, plus $3.70 for each additional $100.00 or a fraction thereof, to and including $2,000.00
	$2,001.00 to $25,000.00	$105.50 for the first $2,000.00, plus $16.55 for each additional $1,000.00 or a fraction thereof, to and including $25,000.00
	$25,001.00 to $50,000.00	$486.15 for the first $25,000.00, plus $12.00 for each additional $1,000.00 or a fraction thereof, to and including $50,000.00
	$50,001.00 to $100,000.00	$786.15 for the first $50,000.00, plus $8.45 for each additional $1,000.00 or a fraction thereof, to and including $100,000.00
	$100,001.00 to $500,000.00	$1,208.65 for the first $100,000.00, plus $6.75 for each additional $1,000.00 or a fraction thereof, to and including $500,000.00
	$500,001.00 to $1,000,000.00	$3,908.65 for the first $500,000.00, plus $5.50 for each additional $1,000.00 or a fraction thereof, to and including $1,000,000.00

10-2-3A	$1,000,001.00 and up	$6,658.65 for the first $1,000,000.00, plus $4.50 for each additional $1,000.00 or a fraction thereof
10-2-3A	Surcharge fee	Fee per Minnesota Statute 326B.148
10-2-3B	Plan review fee	65% of building permit fee per Minnesota Statute 326B.153 subd. 2
10-2-3A, C, D, E	Air conditioner	$75.00 + $1.00 SC
	Gas line (residential)	$75.00 + $1.00 SC
	Gas line (commercial)	Valuation + SC + PC or minimum $150.00 + $1.00 SC
	Heating/furnace (replacement only)	$75.00 + $1.00 SC
	Backflow irrigation system	$75.00 + $1.00 SC
	Mechanical (existing residence)	Valuation + SC ($75.00 minimum + $1.00 SC)
	Mechanical (new residence)	Valuation + SC ($75.00 minimum + $1.00 SC)
	Mechanical - commercial (new or existing)	Valuation + SC + PC ($150.00 minimum + $1.00 SC)
	Other building permit related inspections and fees:	
	Addition (residential)	Valuation + SC + PC
	Basement finish	Valuation + SC + PC
	Additional plan review required by changes, additions or revisions to plans	$65.00 per hour
	Contractor verification	5.00
	Decks	Valuation + SC + PC
	Detached garages/outbuildings	Valuation + SC + PC
	Fence (new or existing commercial)	Valuation ($90.00 minimum)
	Fence (new or existing residence)	$75.00
	Fire suppression	Valuation + SC + PC (PC depends on if the state reviews)
	Fireplace (new or existing residence)	75.00 + $1.00 SC
	For use of outside consultants for plan checking and inspections, or both	Actual costs
	Gas fitter processing fee	$35.00 (required for all gas connections and work)
	Inspection for which no fee is specifically indicated	65.00 per hour (minimum charge ½ hour)
	Inspections outside of normal business hours	100.00 per hour
	New construction (commercial or residential)	Valuation + SC + PC
	Permanent sign	Valuation + SC + PC
	Reinspection fees	65.00 per hour
	Retaining walls (over 4 ft. height)	Valuation
	Site inspection (residential)	150.00
	Three season and screened porches	Valuation + SC + PC
	Window installation (commercial)	Valuation + SC + PC ($150.00 minimum + $1.00 SC)
	Window installation (residential)	Valuation + SC
	Plumbing - commercial (new or existing)	Valuation + SC + PC ($150.00 minimum + $1.00 SC)
	Plumbing (existing residence)	Valuation + SC ($75.00 minimum + $1.00 SC)
	Plumbing (new residence)	Valuation + SC + PC ($150.00 minimum + $1.00 SC)
	Reroof (commercial)	Valuation + SC + PC ($150.00 minimum + $1.00 SC)
	Reroofing (existing residence)	Valuation + SC ($150.00 + $1.00 SC)
	Tenant occupancy	$100.00 + $1.00 SC
	Tenant finish	Valuation + SC + PC
	Water heater	$75.00 + $1.00 SC
	Water softener	$75.00 + $1.00 SC
10-3-8A	Fire Department lock box - exterior mounted	$190.00 + tax
10-3-9A, B	Fire inspection - commercial	$50.00/commence fourth inspection, first 3 free
	Fire inspection - suppression/alarm	Valuation ($125.00 minimum)
10-4-10D1	Rental units - residential:	
	Multiple-family/apartment	$150.00/building + $10.00 per unit
	Single-family/townhomes	$100.00 per year
10-4-10D2	Rental unit inspection fee (after 1st reinspection)	50.00 per occurrence
10-4-13F	Compliance order reimbursement	Cost of remedy and administration (time + materials + equipment)
10-5-3	Numbering buildings violation	Petty misdemeanor
	Sign regulations:	
10-7-7B1a	Temporary and/or portable signs	$35.00 per 14 days
10-7-8	Advertising device - billboard	Valuation + PC + SC
	Advertising device renewal fee	$75.00 annually
	Business sign permit	Valuation + PC + SC
	Change of advertising device	Valuation + PC + SC

10-7-9B	Sign Code violation	$200.00
	Vacant building registration:	
10-8-5	Vacant building registration	100.00 annually
10-8-6C	Vacant building securing by City	Cost of time + materials + equipment + tax
10-8-6D	Vacant building mowing lawn by City	$150.00 fee + $50.00/hour per man hours and $50.00/hour per piece of equipment (1 hour minimum) or full cost of contract work + tax
10-8-8	Penalty for failure to register a vacant building	$100.00 per month
	Subdivision regulations:	
11-2-7A	Administrative subdivision	$400.00/$1,500.00
	Sketch plan	$200.00/$2,500.00 plus $50.00 per lot
	Preliminary plat:	
	Residential	$450.00/$5,000.00 or $250.00 per lot, whichever is greater
	Commercial/industrial	$450.00/$5,000.00 plus $500.00 per lot, whichever is greater
	Final plat	$400.00/$2,500.00
	Park dedication:	
	Residential	$3,630.00 per residential unit
	Commercial	$9,020.00 per acre subdivided
	Industrial	$2,750.00 per acre subdivided
	Variance/appeal	$300.00/$500.00
11-2-7B	Administrative fee	3.5% of all Municipal improvement costs
	Appendix A - Zoning Ordinance:	
300.1A	Rezoning	$400.00/$1,000.00 escrow
400.2A	Conditional use permit:	
	Site <4 acres	$300.00 + $1,500.00 escrow
	Site 4 - 10 acres	$300.00 + $2,500.00 escrow
	Site >10 acres	$300.00 + $5,000.00 escrow
500.2A3a	Minor variance	$100.00 + $100.00 escrow
500.2B2	Major variance/appeals	$300.00 + $650.00 escrow
	Vacations	$300.00 + $1,000.00 escrow
700.2	Certificate of occupancy of zoning	$200.00
800.2	Administrative enforcement	1,000.00
1000.5B	Swimming pool permit	Valuation + PC + SC
1000.7B1a	Landscaping, general - sodding/seeding	$100.00 administrative fee + escrow of $3,000.00 (minimum) or 1.5 times the cost of ground cover, whichever is greater
1000.7B1b	Nongrowing season escrow	
1000.7C2b	Landscaping, new residential - required ground cover escrow	
1000.22	Temporary outdoor seasonal sales	$50.00 per event
1500.4 and 1500.6A	Administrative permits and minor site and building plan review	$250.00/$250.00 escrow
1500.2 and 1500.5 and 1500.6	Site and building plan review (major):	
	Site <4 acres	$300.00 + $1,500.00 escrow
	Site 4 - 10 acres	$300.00 + $2,500.00 escrow
	Site >10 acres	$300.00 + $5,000.00 escrow
1600.3B	Special home occupation permit	$100.00
1800.2A	Land filling permit (in excess of 20 cu. yards):	
	Residential - single lot	25.00
	Commercial/industrial/institutional	$200.00 + $1,000.00 per acre escrow
1900.3A	Land excavation, grading permit (in excess of 20 cu. yards):	
	Residential - single lot	$25.00
	Commercial/industrial/institutional	$200.00 + $1,000.00 per acre escrow
2100.2	Essential service permit	$300.00 + $1,000.00 plus $50.00 per lot escrow
2700.4A1	PUD rezoning	$400.00+ $50.00 per lot + $5,000.00 escrow
2700.4C2b	PUD concept plan	$300.00 + $50.00 per lot + $1,500.00 escrow
2700.4D	PUD development stage plan	$300.00 + $1,000.00 escrow
2700.4E	PUD final plan	$300.00 + $1,000.00 escrow
5100.10	Flood regulations violation	Not more than $1,000.00 or imprisonment not to exceed 90 days, or both, plus cost of prosecution in either case

Note:

1. Fees shall be based on an hourly rate as estimated by the City Engineer.

(Ord. 2017-01, 1-3-2017; amd. Ord. 2019-03, 1-22-2019; Ord. 2019-12, 12-16-2019; Ord. 2020-06, 12-7-2020; Ord. 2021-14, 12-6-2021; Ord. 2022-05, 6-20-2022; Ord. 2022-17, 12-5-2022)

CHAPTER 2

INVESTMENT OF IDLE FUNDS

SECTION:

3-2-1: Authorization

3-2-2: Investment Officer

3-2-3: Permitted Investments And Interest Bearing Deposits; Minimum Requirements

3-2-4: Criteria For Making Investments

3-2-5: Cash Flow Analysis

3-2-6: Investment Depositories Designated

3-2-7: Violations

3-2-1: AUTHORIZATION:
Pursuant to Minnesota statutes and this chapter, the city is authorized to invest its idle funds in certain specified obligations, and it may make interest bearing deposits of such funds in state or national banks, and savings and loan associations. (Ord. 1995-4, 2-6-1995)

3-2-2: INVESTMENT OFFICER:
By Minnesota statutes and this chapter, the city treasurer is designated as the primary investment officer. In the absence of the city treasurer ("absence" being defined as unavailable), the following alternates are designated to act as the investment officer: a) city clerk; or b) finance director. The city administrator, who also serves as the city treasurer, may appoint the finance director or other designee to be acting investment officer. Investments shall be made in accordance with the city investment policy. (Ord. 1995-4, 2-6-1995; amd. 2005 Code)

3-2-3: PERMITTED INVESTMENTS AND INTEREST BEARING DEPOSITS; MINIMUM REQUIREMENTS:
Permissible investments and interest earning deposits shall meet the minimum requirements in the city investment policy. (Ord. 1995-4, 2-6-1995; amd. 2005 Code)

3-2-4: CRITERIA FOR MAKING INVESTMENTS:
The following shall be the criteria used in making investments for the city with no exceptions:

A. Safety: Includes the federal insurance available up to the specified maximum with excess bank deposits protected by the furnishing of the required collateral (110 percent of the excess deposit). In no case will home mortgages be permitted as collateral even though allowed in law. Direct obligations of the United States (treasury certificates, notes, bonds, and bills) are guaranteed by the United States. Safety of government agency issues must be weighed in terms of experience, types of loans which agencies make, and what organizations congress and the states permit to invest in agency issues.

B. Spacing Of Maturities: This principle must be stated: "When the money is needed, it must be available". In short, the interest to be earned, the length of the investment and the estimated cash flow needs shall be weighed so as to obtain the maximum investment return with the funds available as required.

C. Liquidity: A proper investment must be sufficiently liquid so that the city is able to obtain cash if an emergency arises.

D. Yield: The investment or deposit providing maximum earnings shall be made since the object of investing idle funds is to put the taxpayers' money to a use that will yield the greatest return consistent with safety and the city's later need for money. (Ord. 1995-4, 2-6-1995)

3-2-5: CASH FLOW ANALYSIS:
A. Cash Forecast: A cash forecast is the city's tool for determining expected expenditures and revenues over a projected period of time which may be a fiscal calendar year or several fiscal calendar years.

B. Amount Kept In Checking Account: The amount kept in the checking account is the amount required to cover any obligations of the city that may be outstanding, plus any money that may be expended based on the cash flow projections between investment periods and in relation to the city determined fiscal periods, plus any banking or financial institution service charges that may be incurred for the maintenance of the city accounts.

C. Accountability: Investments should be shown at cost and adjusted for any premium or discount. An accounting schedule of investments for each year will show, for each investment, the date purchased and sold, the price paid with reference to one hundred (100) as par, the total cost to the city, the amount realized on sale, with premium if any, and the interest received by the city. (Ord. 1995-4, 2-6-1995)

3-2-6: INVESTMENT DEPOSITORIES DESIGNATED:
The city council, at the annual meeting, will designate the official depository(ies) by resolution as prescribed in accordance with Minnesota law and may add or delete depositories from time to time as required for the proper conduct of city business, with these actions being officially recorded. (Ord. 1995-4, 2-6-1995)

3-2-7: VIOLATIONS:
Violations of the provisions of this chapter shall fall under Minnesota state law in accordance with the magnitude of the violation. (Ord. 1995-4, 2-6-1995)

CHAPTER 3

PURCHASING POLICY

SECTION:

3-3-1: Authorization

3-3-2: Purchasing Agent

3-3-3: Emergency Purchasing

3-3-4: Employee Purchasing

3-3-5: Purchases And Contracts Over Five Thousand Dollars But Under Ten Thousand Dollars

3-3-6: Purchases And Contracts Of Ten Thousand Dollars But Under Fifty Thousand Dollars

3-3-7: Purchases And Contracts Of Fifty Thousand Dollars And Over

3-3-8: Award Recommendations

3-3-9: Purchasing Procedures And Guidelines

3-3-1: AUTHORIZATION:
Pursuant to Minnesota statutes and this chapter, the city is authorized to establish purchasing policies for the city. (Ord. 1997-1, 2-3-1997)

3-3-2: PURCHASING AGENT:
The city administrator shall serve as the chief purchasing agent of the city[1] and shall have the authority to delegate powers to the city department heads and supervisors for items directly under their control. All purchases for the city and all contracts shall be let by the purchasing agent when the amount of the purchase or contract does not exceed five thousand dollars ($5,000.00). Purchases or contracts over five thousand dollars ($5,000.00) in value shall be let or made by the city council upon recommendation by the chief purchasing agent. (Ord. 1997-1, 2-3-1997; amd. 2005 Code)

Notes

1 1. See also subsection 1-7A-3I of this code.

3-3-3: EMERGENCY PURCHASING:
When an emergency occurs that may imperil the public safety, health and welfare, a department head/supervisor may make a necessary emergency purchase not in excess of three thousand dollars ($3,000.00) and report the purchase or service contracted for in writing to the chief purchasing agent within twenty four (24) hours. The reasons for such a purchase will be included for follow up approval. In the event the emergency exceeds three thousand dollars ($3,000.00), the city council finance committee (elected officials including the alternate) may authorize expenditures over three thousand dollars ($3,000.00) but not in excess of five thousand dollars ($5,000.00) with ratification by the city council of the whole at the next regular meeting. (Ord. 1997-1, 2-3-1997; amd. 2005 Code)

3-3-4: EMPLOYEE PURCHASING:
Other than emergency purchasing, no city employee is empowered, unless so designated by the chief purchasing agent, to order, sign any order, or give any receipt for materials except as the same has been authorized by purchase order. A purchase order is signed by the chief purchasing agent. Failure to follow this policy requires the employee to become personally liable for any and all costs incurred therein. (Ord. 1997-1, 2-3-1997)

3-3-5: PURCHASES AND CONTRACTS OVER FIVE THOUSAND DOLLARS BUT UNDER TEN THOUSAND DOLLARS:
Purchases or contracts over five thousand dollars ($5,000.00) but under ten thousand dollars ($10,000.00) shall be approved by the city council upon the recommendation of the chief purchasing agent in the manner of purchasing deemed more favorable to the interest of the city by the city council. Methods to be used may be made either upon quotation or in the open market with the chief purchasing agent being responsible for preparation of specifications. (Ord. 1997-1, 2-3-1997; amd. 2005 Code)

3-3-6: PURCHASES AND CONTRACTS OF TEN THOUSAND DOLLARS BUT UNDER FIFTY THOUSAND DOLLARS:
Purchases or contracts of ten thousand dollars ($10,000.00) but under fifty thousand dollars ($50,000.00) shall be approved by the city council upon the recommendation of the chief purchasing agent in the manner of purchasing deemed most favorable to the interest the city. Methods may be made either upon sealed bids or by direct negotiation, by obtaining two (2) or more quotations for the purchase or sale when possible, and without advertising for bids as allowed by Minnesota statutes section 471.345, and the chief purchasing agent shall be responsible for preparation of specifications. (Ord. 1997-1, 2-3-1997; amd. 2005 Code)

3-3-7: PURCHASES AND CONTRACTS OF FIFTY THOUSAND DOLLARS AND OVER:
Purchases or contracts of fifty thousand dollars ($50,000.00) and over shall be approved by the city council upon the recommendation of the chief purchasing agent in the manner of purchasing deemed most favorable to the interests of the city. Methods to be used shall include formal sealed bids solicited by public notice as allowed by Minnesota statutes section 471.345, and the chief purchasing agent shall be responsible for preparation of specifications and the advertising therein. Award would be to the lowest responsible bidder. (Ord. 1997-1, 2-3-1997; amd. 2005 Code)

3-3-8: AWARD RECOMMENDATIONS:
The chief purchasing agent shall recommend to the city council which bid, in his opinion, is the lowest responsible bid. The council may determine the most advantageous quote or bid for the city and may accept such quote or bid. The city council reserves the right to accept or reject any or all of the quotes or bids and may waive minor regularities contained in the quotes or bids. (Ord. 1997-1, 2-3-1997; amd. 2005 Code)

3-3-9: PURCHASING PROCEDURES AND GUIDELINES:
At least two (2) competitive prices shall be solicited. When feasible, quotations or bids shall be based on plans and specifications. Competition shall be upon common merchandise, conditions or services so as to foster the competition. Purchase orders shall be used for all purchases where practical and must be authorized and signed by the chief purchasing agent in compliance with this chapter. All quotations shall be kept on file for a period of at least one year after receipt thereof. (Ord. 1997-1, 2-3-1997; amd. 2005 Code)

CHAPTER 4

SPECIAL ASSESSMENT DEFERRALS

SECTION:

3-4-1: Authorization

3-4-2: Eligibility For Deferment

3-4-3: Filing For Deferral Status; Fee

3-4-4: Duration Of Deferral Status

3-4-5: Interest On Deferred Assessment

3-4-6: Termination Of Deferral Status

3-4-1: AUTHORIZATION:
Pursuant to Minnesota statutes sections 435.193 through 435.195, senior citizens and retired disabled homeowners may defer special assessments levied against homestead property owned by the applicant if the criteria set forth in this chapter are met by the applicant. (2005 Code)

3-4-2: ELIGIBILITY FOR DEFERMENT:
Any person sixty five (65) years of age or older or totally and permanently disabled, as determined by the social security administration, may defer special assessments levied against real property for public improvements if all of the following conditions are met:

A. Ownership: The applicant must be the fee simple owner of the property or must be a contract vendee for fee simple ownership. An applicant must provide either a recorded deed or contract for deed with the application to establish a qualified ownership interest as required herein.

B. Homestead: The property must be the applicant's principal place of domicile and classified on the city and county real estate tax rolls as the applicant's homestead.

C. Net Income: The applicant's net income and net income of all other tenants, tenants in common or contract vendees in title to the property may not exceed the low income limit as established by the department of housing and urban development as used in determining the eligibility for section VIII housing during the preceding year from the assessment levy. Net income determinations shall be made using federal and/or state income tax forms. (2005 Code)

3-4-3: FILING FOR DEFERRAL STATUS; FEE:
An eligible applicant must file an application on or before September 15 of the year preceding the year for which deferral status is requested in order to implement the deferral program for said year. All deferral applications must be made on forms provided by the city and submitted to the city clerk or administrator. The applicant will be charged an administrative filing fee established in section 3-1-3 of this title for purpose of processing the application. (Ord. 2017-01, 1-3-2017)

3-4-4: DURATION OF DEFERRAL STATUS:
The deferment shall be granted for as long a period of time as the hardship exists and the conditions as aforementioned have been met. However, it shall be the duty of the applicant to notify the administrator of any change in his status that would affect eligibility for deferment. (2005 Code)

3-4-5: INTEREST ON DEFERRED ASSESSMENT:
All deferred special assessments shall be subject to and charged simple interest at the prevailing interest rate applicable at the time the assessment was originally levied. Said interest shall be payable upon termination of the deferral status. (2005 Code)

3-4-6: TERMINATION OF DEFERRAL STATUS:
Special assessment payments deferred pursuant to the eligibility requirements set forth by this chapter shall become payable effective upon the occurrence of one of the following events:

A. Conveyance Of Property: The subject property is sold, transferred, subdivided, or in any way conveyed to another by the fee owner qualified for deferral status.

B. Death Of Owner: The death of the fee owner qualified for deferral status unless a surviving joint tenant, tenant in common, or contract vendee is eligible for the deferral benefit provided hereunder.

C. Nonhomestead Property: The subject property loses its homestead status for any reason.

D. No Hardship: The city council determines that there would be no hardship to require an immediate or partial payment of the deferred special assessment. (2005 Code)

CHAPTER 5

EMERGENCY RESPONSE FEES

SECTION:

3-5-1: Burglar And Safety Alarm Fees

3-5-2: Fire Protection And Emergency Response Fees

3-5-1: BURGLAR AND SAFETY ALARM FEES:
A. Scope And Purpose: This section regulates the use of burglar and safety alarms, establishes user fees and establishes a system of administration. The purpose of this section is to protect the public safety services of the city from misuse of public safety alarms and to provide the maximum possible service to public safety alarm users.

B. Definitions: For purposes of this section, the terms defined in this subsection have the meanings given to them:

ALARM SYSTEM: An alarm installation designed to be used for the prevention or detection of burglary, robbery, heat, smoke and fire on the premises which contain an alarm installation. Automobile alarm devices are not an "alarm system".

ALARM USER: A person in control of any building, structure or facility wherein an alarm system is maintained.

FALSE ALARM: An alarm signal eliciting a response by fire personnel when a situation requiring a response does not, in fact, exist and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the owner or lessee of an alarm system. (Ord. 1997-13, 9-22-1997)

C. User Fees Imposed: A public safety alarm system that reports more than three (3) false alarms to the city in a twelve (12) month period will cause the alarm user to be charged a user fee. Fees are established in section 3-1-3 of this title. (Ord. 2017-01, 1-3-2017)

D. Appeals: An alarm user that is required by the city to pay a user fee as the result of a false alarm may make a written appeal of the false alarm charge to the fire chief within ten (10) days of notice by the city of the false alarm charge. Following review and determination by the fire chief, the decision may be appealed to the city council, who will make a final determination as to whether the user is to be charged with a false alarm. (Ord. 1997-13, 9-22-1997)

E. Payment Of Fees; Delinquencies:

1. User fees shall be paid to the city administrator within thirty (30) days from the date of notice by the city to the alarm user. Failure to pay the

fee will cause the alarm user to be considered delinquent and subject to a penalty of an additional one and one-half percent ($1^1/_2$%) of the unpaid fee for each additional thirty (30) day period that the fee remains unpaid.

2. The city administrator shall prepare an assessment roll of the delinquent amounts against the respective properties served and deliver the assessment roll to the city council for adoption on or before November 15 of each year. The assessment roll shall be filed with the Wright County auditor by the city administrator, and the county auditor shall thereupon enter such amount as part of the tax levy on said premises to be collected during the ensuing year. (Ord. 1997-13, 9-22-1997; amd. 2005 Code)

F. Disposition Of Revenues: User fees collected from false alarms shall be credited to the Albertville fire department's youth education programs.

G. Alarm Report: If an alarm user has incurred five (5) false alarms within one calendar year, the alarm user shall submit a written report to the fire chief within ten (10) days after being notified of the fifth false alarm, describing actions taken or to be taken to discover and eliminate the cause of the false alarms. Failure to submit the written report is a violation of this section.

H. Administrative Rules:

1. The alarm user is required to post below the alarm system control the telephone number(s) of personnel to be contacted when, or if, the fire personnel cannot reset the alarm and it must be silenced.

2. The Fire Chief shall prepare other rules as may be necessary for implementation of this section and present the proposed rules to the City Council for consideration as an amendment to this section.

I. Confidentiality:

1. Information submitted in compliance with this section will be held in confidence and exempt from discovery to the extent permitted by law.

2. Subject to requirements of confidentiality, the Fire Chief may develop and maintain statistics for the purpose of ongoing alarm systems evaluation. (Ord. 1997-13, 9-22-1997)

3-5-2: FIRE PROTECTION AND EMERGENCY RESPONSE FEES:

A. Fees Established:

1. The City Council shall, by Code established in section3-1-3 of this title, establish fees for fire protection service and/or emergency response which are not otherwise specified by contract. Said fees shall be established at a fixed rate for certain specific types of incidents or for actual costs incurred by the Fire Department in responding to the incident.

a. False Alarms: Fees for response to false fire alarms and false carbon monoxide alarms shall be charged to the property owner or tenant for any incident after the third call to the property within a twelve (12) month period.

b. Chemical/Hazardous Materials Spills: Fees incurred by the City for response to chemical spills on roadways and at fixed private facilities within the Albertville fire service area shall be charged to the owner of the chemical, the owner of the vehicle in which the chemical is being shipped or is a part thereof, or to the owner of the facility where the spill occurred.

2. Fees shall include, but shall not be limited to, actual manpower costs for all personnel that respond to the incident (minimum of 1 hour) and the cost on a per hour basis for each fire apparatus or other City mechanical equipment that responds to the incident (minimum of 1 hour per unit) as established in section 3-1-3 of this title.

3. In addition, the bill for service shall include any cost of cleanup of any contaminated equipment and/or repair of any equipment damaged during the incident or its replacement, along with replacement of any disposable equipment, supplies, and/or communication equipment, and administrative costs to be established at ten percent (10%) of the total bill.

B. Fire Watch: Fees for personnel to stand by on fire watch due to unusual fire hazards, while waiting for the property owner or tenant to respond to the scene following a fire incident and/or fire alarm, may be billed to the owner of the property or the tenant, or both, on a per hour basis with a one hour minimum as established in section 3-1-3 of this title. One-fifth ($^1/_5$) of the fee shall be retained by the City for administrative costs, and four-fifths ($^4/_5$) of the fee shall be paid to fire personnel standing fire watch. If a fire watch is established at a property, the watch shall be maintained until the owner of the property, the tenant, or his/her designated representative arrives at the property and takes over responsibility for monitoring fire safety, or until the Fire Department personnel on the scene determine that such responsible person either cannot be located or is unwilling to take over responsibility for monitoring fire safety, or until the Fire Department personnel on the scene determine that a fire watch is no longer necessary.

C. Preventative Fire Watch: When Fire Department personnel provide fire watch protection, the fees for such personnel may be billed to the owner of the property or the tenant on a per hour basis with a one hour minimum as established in section 3-1-3 of this title. One-fifth ($^1/_5$) of the fee shall be retained by the City for administrative costs and four-fifths ($^4/_5$) shall be paid to fire personnel standing fire watch. Preventative fire watch is required in any place of assembly or any place where people congregate where public safety is at risk due to the number of persons, or the nature of the performance, exhibition, display, contest, or activity, or due to unusual fire hazards.

D. Car Fires And Accidents: The City shall charge a fire protection and emergency response fee, as established in section3-1-3 of this title, when there are responses to car fires and accidents. (Ord. 1997-14, 9-22-1997; amd. Ord. Ord. 2017-01, 1-3-2017; Ord. 2018-01, 1-2-2018; Ord. 2019-13, 12-16-2019)

TITLE 4

BUSINESS REGULATIONS

CHAPTER 1

ALCOHOLIC BEVERAGES

SECTION:

4-1-1: Adoption Of State Regulations

4-1-2: License Required

4-1-3: Application For License; Financial Security

4-1-4: Classification Of Licenses

4-1-5: 3.2 Percent Malt Liquor License With On-Sale Wine License

4-1-6: License Fees

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4-1-1: ADOPTION OF STATE REGULATIONS:
The provisions of Minnesota statutes chapter 340A, all sections, are adopted and made a part of this chapter as if set out in full. (2005 Code)

4-1-2: LICENSE REQUIRED:
No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor or 3.2 percent malt liquor without a license to do so as provided in this chapter. (2005 Code)

4-1-3: APPLICATION FOR LICENSE; FINANCIAL SECURITY:

A. Contents And Form Of Application:

1. Every application for a license to sell liquor, including applications for renewal of a license, shall state the name of the applicant, his age, representations as to his character (with such references as the council may require), his citizenship, the type of license applied for, the address of the building where liquor will be consumed or sold, the business in connection with which the proposed license will operate and its location, including a scaled drawing depicting the building area and rooms where liquor will be served, whether the applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the council may require from time to time.

2. Every application shall also include a copy of each summons received by the applicant, under Minnesota statutes section 340A.802, or any successor statute, during the preceding year.

3. In addition to containing such information, the application shall be in the form prescribed by the bureau of criminal apprehension, shall be executed by the applicant, and shall be verified and filed with the city clerk.

4. No person shall make a false statement in an application.

B. Financial Responsibility:

1. Proof: No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota statutes section 340A.409, or any successor statute, with regard to liability under Minnesota statutes section 340A.801. Such proof shall be filed with the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this subsection B1 shall conform to Minnesota statutes section 340A.409.

2. Approval: The security offered under subsection B1 of this section shall be approved by the city council, and in the case of applicants for off sale licenses, by the state commissioner of public safety. Liability insurance policies required by this chapter but not by state law shall be approved as to form by the city attorney.

3. Failure To Provide: Operation of a licensed business without having on file with the city at all times proof of financial responsibility as required in subsection B1 of this section is a cause for revocation of the license.

C. Submission Of Application: The application, fee, proof of financial responsibility, and any signed authorizations which may be necessary to perform a criminal background check shall be submitted to the city sixty (60) days prior to the date the applicant desires the license to be issued. (2005 Code)

4-1-4: CLASSIFICATION OF LICENSES:
Liquor licenses shall be of eleven (11) types: intoxicating liquor on-sale, temporary intoxicating liquor on-sale, 3.2 percent malt liquor on-sale, temporary 3.2 percent malt liquor on-sale, Sunday intoxicating liquor on-sale, intoxicating liquor off-sale, 3.2 percent malt liquor off-sale, and on-sale wine. (2005 Code)

A. Intoxicating Liquor On-Sale Licenses: On-sale intoxicating liquor licenses may be issued only to hotels, clubs, restaurants, brewpubs licensed under Minnesota statutes 340A.301, subdivision 1(d), and exclusive liquor stores, and shall permit on-sale of liquor only. (Ord. 2014-07, 10-20-2014)

B. Temporary Intoxicating Liquor On-Sale Licenses: Subject to the approval of the commissioner of public safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other nonprofit organizations in existence for at least three (3) years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by the state liquor act [1].

C. 3.2 Percent Malt Liquor On-Sale Licenses: On-sale 3.2 percent malt liquor licenses may be issued to bona fide clubs, restaurants and hotels where food is prepared and served for consumption on the premises only. (2005 Code)

D. Temporary 3.2 Percent Malt Liquor On-Sale Licenses:

1. Limited License: Notwithstanding other licensing requirements for 3.2 percent malt liquor, the city council, upon proper application, may, in its discretion, grant limited licenses to sell 3.2 percent malt liquor on-sale to bona fide clubs which meet the definition of Minnesota statutes section 340A.101, subdivision 7, and to charitable, religious or nonprofit organizations. (Ord. 2013-001, 1-22-2013)

2. Term Of License; Fee: Unless waived by the council, such limited licenses shall not exceed a two (2) week period per event, and shall require a payment of the fee set out in section 3-1-3 of this code. (2005 Code)

3. Reserved. (Ord. 2010-011, 1-3-2011)

4. Premises And Hours: The premises from which said 3.2 percent malt liquor shall be dispensed, the hours of operation, and the exact day or days for which the limited license is requested shall be accurately described in the application; provided, however, that the hours of operation must conform to Minnesota statutes section 340A.504, subdivision 1, or any successor statute.

5. Additional Restrictions: The council may, in its discretion, require such restrictions on the limited license as it deems necessary.

E. Sunday On-Sale Intoxicating Liquor Licenses: A special license authorizing on-sale intoxicating liquor sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant, or club which has facilities for serving at least thirty (30) guests at one time, and which has an on-sale license.

F. Intoxicating Liquor Off-Sale Licenses: Off-sale licenses shall be issued to exclusive liquor stores to permit off-sales of liquor only as well as to issue an offsale license to establishments also holding an on-sale intoxicating liquor license for a combined license to sell both on and off sale intoxicating liquor as allowed by MN State Statute 340A.406.

G. 3.2 Percent Malt Liquor Off-Sale Licenses: Off-sale 3.2 percent malt liquor licenses may be issued to general food stores, drugstores and convenience stores which permit the sale of 3.2 percent malt liquor at retail in the original package for consumption off the premises.

H. On-Sale Wine Licenses: On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota statutes section 340A.404, subdivision 5, or any successor statute, and shall permit only the sale of wine not exceeding fourteen percent (14%) alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. (2005 Code)

I. Brewery Taproom License: A brewery taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. This license may be issued to the holder of a brewer's license under Minnesota statutes 340A.301, subdivision 6, clauses (c), (i), and (j).

J. Brewery/Brewpub License For Off-Sale Of Malt Liquor: A brewer's off-sale license authorizes off-sale of malt liquor at a brewer's licensed premises, which has been produced and packaged by the brewer. This license may be issued to brewers licensed under Minnesota statutes 340A.301, subdivision 6, clause (c), (d), (i), or (j). (Ord. 2014-07, 10-20-2014)

K. Consumption And Display Permit:

1. Permit Required: No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a consumption and display permit from the state of Minnesota. Rental of a public facility does not make a subdivision or the facility a "business establishment" for the purposes of this chapter.

2. Hours Permitted: The consumption of alcoholic beverage under a consumption and display license shall be limited to the hours of nine o'clock (9:00) A.M. and twelve o'clock (12:00) midnight.

3. State Permit Approval: The applicant shall receive permit approval by the state and provide evidence of state permit approval to the city prior to operating under the permit.

4. Permit Displayed: The permit shall only authorize an approved business address. Said permit shall be openly displayed at the approved address.

5. Expiration; Renewal: The permit shall annually expire on March 31 of each year and must be renewed with the state of Minnesota.

6. Violations: The establishment holding the permit shall be open to the Minnesota commissioner of public safety or his representatives, and local law enforcement officers. Any sale of liquor or violations under Minnesota statutes 340A shall be grounds for permit suspension or revocation.

(Ord. 2017-01, 1-3-2017; amd. Ord. 2020-04, 6-1-2020)

Notes

1 1. MSA ch. 340A.

4-1-5: 3.2 PERCENT MALT LIQUOR LICENSE WITH ON-SALE WINE LICENSE:
On-sale wine license holders whose gross receipts are at least sixty percent (60%) attributable to the sale of food shall be allowed to sell 3.2 percent malt liquors at on-sale by obtaining an on-sale license to sell 3.2 percent malt liquors (nonintoxicating malt liquors). (2005 Code)

4-1-6: LICENSE FEES:
A. Fees Established: The annual fees for liquor licenses shall be established in section3-1-3 of this code.

B. Modifications To Fees: These fees may be changed from time to time by code amendment of the city council. (Ord. 2017-01, 1-3-2017)

C. Payment And Disposition Of Fees; Refunds:

1. Each application for a license shall be accompanied by a receipt from the city clerk for payment in full of the fee for the on-sale licenses and payment in full for the off-sale licenses. All fees shall be paid into the general fund. If an application for a license is rejected, the city clerk shall refund the amount paid as the license fee less any charges for administrative fees.

2. No refund of any fee shall be made except as authorized by statute. (2005 Code)

4-1-7: PROCEDURE FOR GRANTING LICENSE:
A. Preliminary Investigation: Application shall be made on a form prescribed by the state bureau of criminal apprehension and with such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of criminal apprehension for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed ten thousand dollars ($10,000.00), which shall be paid by the applicant. The fee shall be payable by the applicant whether or not the license is granted. The city may require the applicant to post a cash escrow in the amount of the estimated cost of the investigation prior to processing the application.

B. Additional Investigation; Hearing And Issuance: The city council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation pursuant to subsection A of this section. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No off-

sale license shall become effective until it, together with the security furnished by the applicant, has been approved by the commissioner of public safety.

C. Approval for Fire Relief Association Annual Event: The City Council has the authority to approved the necessary liquor license applications for this event without annual approval before the City Council at an official meeting and direct the City Clerk to process the application annually.

(2005 Code; amd. Ord. 2020-04, 6-1-2020)

4-1-8: TERM AND EXPIRATION OF LICENSE; FEES PRORATED:
Each license shall be issued for a period of one year; except, that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on April 14. (2005 Code)

4-1-9: PERSON AND PREMISES LICENSED; TRANSFER OF LICENSE:
Each license shall be issued only to the applicant, and for the premises described in the application. Where the application seeks a license for consumption or sale of liquor within a building, the license shall be effective only for the compact and contiguous space specified in the approved license application. No license may be transferred to another person or place without city council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license. (2005 Code)

4-1-10: INELIGIBILITY FOR LICENSE:
A. Persons Ineligible:

1. Generally: No license shall be granted to any person made ineligible for such license by state law. Not more than one intoxicating liquor license shall be directly or indirectly issued within the city to any one person.

2. Delinquent Fees And Charges: No license shall be granted to any person who has delinquent fines, fees, charges or other financial claims owed to the city. (Ord. 2006-03, 2-21-2006)

B. Places Ineligible:

1. Generally: No license shall be issued for any place or any business ineligible for such a license under state law.

2. Delinquent Taxes And Charges: No license shall be granted for operation on any premises on which taxes, assessments, charges, fees, fines, or other financial claims of the city are delinquent.

3. Fire Code Violations: No license shall be issued or renewed for any premises with existing fire code violations that endanger the lives of those on the premises including employees and patrons. (Ord. 2009-008, 3-2-2009)

4-1-11: CONDITIONS OF LICENSE:
Every license is subject to the following conditions and all other provisions of this chapter and of any other applicable ordinance, state law, or regulation:

A. Insurance: Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license granted pursuant to this chapter.

B. Responsibility Of Licensee: Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

C. Inspections: Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

D. Display During Prohibited Hours: No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

E. Nudity And Sexual Conduct:

1. Prohibited Conduct: The following acts or conduct on premises holding an on-sale liquor or on-sale 3.2 percent malt liquor license are deemed contrary to public welfare and morals, and therefore, no liquor or 3.2 percent malt liquor license issued by the city shall be held at any premises where such conduct or acts are permitted:

a. To employ or use any person in the sale or service of setups of alcoholic beverages or 3.2 percent malt liquor in or about the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals or any portion of the female breast below the top of the areola.

b. To employ or use the service of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subsection E1a of this section.

c. To employ or use any person for the purpose of staging any nature of lingerie show in which the persons are unclothed or in such attire, costume or clothing as described in subsection E1a of this section.

d. To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

e. To permit any employee or person to wear or use any device or covering exposed to view which simulates the breasts, genitals, anus, pubic hair or any portion thereof.

f. To permit any person to perform acts or acts which simulate:

(1) With or upon another person, sexual intercourse, sodomy, oral copulation, flagellation or any sexual acts which are prohibited by law.

(2) Masturbation or bestiality.

(3) With or upon another person, the touching, caressing, or fondling on the buttocks, anus, genitals or female breasts.

(4) The displaying of the pubic hair, anus, genitals or female breasts below the top of the areola.

g. To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

h. To permit any person to remain in or upon the premises who exposes to the public view any portion of his or her genitals or anus.

i. To permit the showing of film, still pictures, electronic reproduction or visual reproductions depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are

prohibited by law.

(2) Any person being touched, caressed, or fondled on the breasts, buttocks, anus or genitals.

(3) Scenes wherein a person displays the vulva or anus or the genitals.

(4) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

2. Violations; Penalties:

a. Revocation Or Suspension Of License: Violation of this subsection shall be grounds for revocation or suspension of any and all licenses held on such premises.

b. Misdemeanor Violation; Penalties: Whoever violates any provision of this subsection shall be guilty of a misdemeanor and subject to penalty as provided in section 1-4-1 of this code. (2005 Code)

F. Music:

1. Live Music: Any on-sale establishment within which live music is being performed must, at all times that the live music is being performed, keep all windows and doors to the establishment closed, except that doors may be opened only as long as necessary for employees and members of the public to enter and exit the establishment. (Ord. 2008-013, 12-15-2008; amd. Ord. 2009-026, 12-7-2009)

2. Amplified Music Played Outdoors: Any on-sale establishment that locates a speaker or other mechanism outdoors through which amplified music is played or broadcast shall not play such music at a volume level that constitutes a nuisance when heard from the property line of the premises.

3. Violation: In the event of a violation of this subsection F, or in the event a law enforcement officer determines that the music can be heard at the property line of the premises at a volume level which is deemed to be a nuisance, the city council may, in addition to any other penalties for violation of this subsection contained in this code, also prohibit live music from being performed in the licensed establishment or amplified music from being played outdoors for any period of time deemed necessary by the city council. (Ord. 2009-026, 12-7-2009)

G. Fire Code Violations:

1. Every licensee shall allow city officials to inspect the premises for fire code violations. If the licensee refuses to allow such inspection, the city council may refuse to issue or renew a license. (Ord. 2009-008, 3-2-2009)

2. Every licensee shall, within sixty (60) days after the city has given notice, remedy any fire code violations which endanger the lives of those on the premises including patrons and employees. If the licensee fails to remedy such violations, the city council may refuse to issue or renew a license, or may seek any remedy available under section 4-1-15 of this chapter.

H. Outdoor Activities: No on-sale establishment may provide any outdoor entertainment activity unless such activity is specifically allowed in the license or a special permit has been issued and the establishment meets all requirements of this chapter.

I. Building And Zoning Code Violations:

1. Every licensee shall allow city officials to inspect the premises at reasonable times for violation of any applicable building or zoning code. If the licensee refuses to allow such inspection, the city council may refuse to issue or renew a license.

2. Every licensee shall, within sixty (60) days after the city has given notice, remedy any building and zoning code violations. If the licensee fails to remedy such violations, the city council may refuse to issue or renew a license, or may seek any remedy available under section 4-1-15 of this chapter.

J. Daily Cleanup: All on-sale licensees shall daily clean up the public right of way abutting the licensed premises and the corresponding right of way across the street. Such cleanup shall include removing any litter from the public right of way.

K. Consumption To Occur Within Specific Area: For on-sale licensed establishments, alcohol may not be consumed on the premises unless consumption occurs within the compact and contiguous area specifically licensed for on-sale transactions, or unless consumption occurs within a specifically described and screened outdoor area specifically designated in the liquor license for the premises and unless the conditions in section 4-1-13 of this chapter are met. (Ord. 2009-026, 12-7-2009)

L. Brewery Taproom License:

1. A brewer may hold only one brewery taproom license, and may not have an ownership interest in a brewpub licensed under Minnesota statutes 340A.301, subdivision 6, clause (d).

2. If the brewer holds a wholesale license, the brewer may not distribute more than twenty thousand (20,000) barrels or manufacture more than twenty five thousand (25,000) barrels of its own brand of malt liquor annually. If an off-sale malt liquor license is also attained, the brewer may not manufacture more than twenty thousand (20,000) barrels annually.

3. The on-sale of malt liquor may only be sold Monday through Saturday, unless a Sunday sales license is attained, and during the hours that "on-sale" of liquor may be made.

4. A brewery must demonstrate compliance with all zoning ordinance standards pertaining to breweries with accessory taprooms.

5. All other provisions of this chapter shall be applicable to such licenses and licensees unless inconsistent with the provisions of this section.

6. Nothing in this section shall preclude the holder of a brewery taproom license from also holding a license to operate a restaurant at the taproom location.

M. Brewery/Brewpub License For Off-Sale Of Malt Liquor:

1. The amount of malt liquor sold at off-sale may not exceed five hundred (500) barrels annually.

2. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in Albertville, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores.

3. The malt liquor must be packaged in sixty four (64) ounce containers known as growlers or in seven hundred fifty milliliter (750 ml) bottles, and must have the following packaging requirements:

a. Growlers must bear a twist type closure, cork, stopper or plug.

b. At time of sale, a paper or plastic adhesive band, strip or sleeve shall be applied to the container and extend over the top of the closure,

forming a seal.

c. The band, strip or sleeve must bear the name and address of the brewer, and must be identified as malt liquor, contain the name of the malt liquor, and bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless labeled otherwise.

4. The brewer seeking the off-sale license shall not brew more than twenty thousand (20,000) barrels of its own brands of malt liquor annually.

5. A brewpub's production of malt liquor for retail sales at on- or off-sale shall not exceed three thousand five hundred (3,500) barrels annually.

6. A brewer may only have one off-sale license. (Ord. 2014-07, 10-20-2014)

4-1-12: DAYS AND HOURS OF OPERATION:

A. On-Sale Licenses: No sale of intoxicating liquor or 3.2 percent malt liquor for consumption on the licensed premises may be made:

1. Between two o'clock (2:00) A.M. and eight o'clock (8:00) A.M. on the days Monday through Saturday.

2. Between two o'clock (2:00) A.M. and eight o'clock (8:00) A.M. on Sundays. (Ord. 2015-03, 5-18-2015)

B. Off-Sale Licenses:

1. No sale of intoxicating liquor or 3.2 percent malt liquor may be made by an off-sale licensee:

a. On Sundays; except between the hours of eleven o'clock (11:00) A.M. and six o'clock (6:00) P.M.;

b. Before eight o'clock (8:00) A.M. on Monday through Saturday;

c. After ten o'clock (10:00) P.M. on Monday through Saturday;

d. On Thanksgiving Day;

e. On Christmas Day, December 25; or

f. After eight o'clock (8:00) P.M. on Christmas Eve, December 24.

2. No delivery of alcohol to an off-sale licensee may be made by a wholesaler or accepted by an off-sale licensee on a Sunday. No order solicitation or merchandising may be made by a wholesaler on a Sunday. (Ord. 2017-03, 6-5-2017, eff. 7-1-2017)

4-1-13: OUTDOOR LIQUOR SALES:

The sale of intoxicating liquor by a holder of a retail on-sale liquor license issued by the city may occur outdoors, subject to the following regulations:

A. Hours: No intoxicating liquor is to be served outside between the hours of twelve o'clock (12:00) midnight and eight o'clock (8:00) A.M.

B. Fencing; Access: The area designated for the dispensing and consuming of intoxicating liquor shall be enclosed by a fence with access into the designated area allowed only via the principal building located on the property, unless a different controlled access is approved by the city.

C. Music And Entertainment:

1. No live musical performances shall be allowed in the designated areas without specific approval by the city.

2. Music or other entertainment in the designated area shall cease at eleven fifty nine o'clock (11:59) P.M. on Friday and Saturday and at ten o'clock (10:00) P.M. on all other nights.

D. Other Regulations: Any other reasonable conditions required by the city. (2005 Code)

E. Description: The license specifically describes and depicts the outdoor area. (Ord. 2009-026, 12-7-2009)

4-1-14: RESTRICTIONS ON PURCHASE AND CONSUMPTION:

A. Liquor In Unlicensed Places: No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor on-sale or a permit from the commissioner of public safety under Minnesota statutes section 340A.414, and no person shall consume liquor in any such place.

B. Open Containers In Vehicles[1]: No person shall have on his person while in a private motor vehicle upon a public highway, any bottle or receptacle containing liquor which has been opened, or the seal broken, or the contents of which have been partially removed. The owner of a private motor vehicle or the driver, if the owner is not present, shall not keep or allow to be kept in a motor vehicle upon a public highway any other bottle or receptacle containing liquor unless it is kept in the trunk of the motor vehicle, or if the vehicle has no trunk, in some other area of the motor vehicle not normally occupied by the driver or passengers.

C. Restricted Hours Of Operation: No person, other than a licensee's bona fide employees actually engaged in performance of their duties, shall be in the licensed premises more than thirty five (35) minutes after the time when a sale can legally occur. The licensee's employees shall not be in the licensed premises more than seventy five (75) minutes after the time when a sale can legally occur. No person shall be in the licensed premises until four o'clock (4:00) A.M. next following the closing. This subsection shall not apply to any separate part of the premises which is open to the general public for business purposes unrelated to the sale of intoxicating liquor, wine or 3.2 percent liquor.

D. Violations: Anyone, including the licensee, patrons of the licensee, or employees of the licensee, who violates this section is guilty of a misdemeanor. Any licensee in whose establishment a violation of this section occurs is guilty of a misdemeanor. Any employee who allows a patron to remain on the licensed premises in violation of this section is guilty of a misdemeanor. (2005 Code)

Notes

1 1. See also section 5-1-8 of this code.

4-1-15: SUSPENSION OR REVOCATION OF LICENSE; CIVIL FINE:

A. The council may either suspend for up to sixty (60) days or revoke any liquor license, or impose a civil fine established in section 3-1-3 of this code, for each violation upon finding that the licensee has failed to comply with any provision of this chapter, any city ordinance or any other applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota statutes sections 14.57 to 14.69 of the administrative procedure act. (Ord. 2017-01, 1-3-2017)

B. Lapse of required dramshop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension

of any license issued pursuant to this chapter without further action of the city council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon, and if such a request is made in writing to the clerk, a hearing shall be granted within ten (10) days or such longer period as may be requested. Any suspension under this subsection shall continue until the city council determines that the financial responsibility requirements of this chapter have again been met. (2005 Code)

4-1-16: MISDEMEANOR VIOLATION; PENALTY:
Any person violating any provision of this chapter is guilty of a misdemeanor and shall be punished pursuant to the applicable state statute regarding misdemeanor penalties as may be amended from time to time, plus the cost of prosecution. (2005 Code)

CHAPTER 2

COIN OPERATED AMUSEMENT DEVICES

(Rep. by Ord. 2022-18, 12-5-2022)

CHAPTER 3

LAWFUL GAMBLING

SECTION:

4-3-1: Purpose

4-3-2: State Regulations Adopted; City May Be More Restrictive

4-3-3: Definitions

4-3-4: Prohibitions

4-3-5: Application Of Provisions; Exemptions

4-3-6: Number Of Licenses And Permits

4-3-7: Eligible Licensees

4-3-8: Expenditure Of Profit

4-3-9: Responsible Parties

4-3-10: Misdemeanor Violation; Penalties

4-3-1: PURPOSE:
The purpose of this section is to closely regulate lawful gambling within the City, to prevent its commercialization, to ensure the integrity of operations, and to provide for the use of net profits only for lawful purposes. (Ord. 2023-10, 8-7-2023)

4-3-2: STATE REGULATIONS ADOPTED; CITY MAY BE MORE RESTRICTIVE:
The provisions of Minnesota Statute ch. 349, as amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the Council that all future amendments of Minn. Stat. ch. 349, are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance was adopted. The City Council is authorized by the provision of Minnesota Statute section 349.213 to impose, and has imposed in the section, additional restrictions on gambling within its limits beyond those contained in Minnesota Statute ch. 349. (Ord. 2023-10, 8-7-2023)

4-3-3: DEFINITIONS:
For the purpose of this section the terms used herein shall have the meanings defined or as used in Minnesota Statue ch. 349. (Ord. 2023-10, 8-7-2023)

4-3-4: PROHIBITIONS:
There shall be no gambling in the City except in accordance with the provisions of this section and the provisions of Minnesota Statutes ch. 349 and rules adopted pursuant thereto. No organization may conduct lawful gambling in the City unless such organization is in full compliance with the licensing and permitting requirements of Minnesota Statute ch. 349. (Ord. 2023-10, 8-7-2023)

4-3-5: APPLICATION OF PROVISIONS; EXEMPTIONS:
This section shall be construed to regulate all forms of lawful gambling within the City except the following as provided for by Minnesota Statutes allowed by Minnesota Statutes 349.166, subd. 2:

A. Bingo, if it is conducted:

1. By an organization in connection with a county fair, the state fair, or a civic celebration and is not conducted for more than twelve (12) consecutive days and is limited to no more than four separate application for activities applied for and approved in a calendar year; or

2. By an organization that conducts bingo on four (4) or fewer days in a calendar year.

An organization that holds a license to conduct lawful gambling under this chapter may not conduct bingo under this subdivision.

B. Bingo may be conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed ten dollars ($10.00), total prizes awarded at a single bingo occasion do not exceed two hundred dollars ($200.00), only members of the organization or residents and their guests of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo.

C. Raffles may be conducted by an organization if the value of all raffle prizes awarded by the organization in a calendar year does not exceed one thousand five hundred dollars ($1,500.00) or, if the organization is a 501(c)(3) organization, if the value of all raffle prizes awarded by the organization at one event in a calendar year does not exceed five thousand dollars ($5,000.00).

D. The City Clerk is authorized to approve lawful gambling as exempt from the requirements for a City license under this section:

1. An organization that conducts lawful gambling on five (5) or fewer days in a calendar year.

2. An organization that does not award more than fifty thousand dollars ($50,000.00) in prizes for lawful gambling in a calendar year. (Ord. 2023-10, 8-7-2023)

4-3-6: NUMBER OF LICENSES AND PERMITS:

A. No organization licensed pursuant to Minnesota Statutes ch. 349 may conduct lawful gambling at more than four (4) locations within the City.

B. No more than one (1) premises permit will be approved for the conduct of lawful gambling on any single premises. (Ord. 2023-10, 8-7-2023)

4-3-7: ELIGIBLE LICENSEES:

Only nonprofit organizations located within the City of Albertville which have operated for at least three (3) years within the City, have at least fifteen (15) active members, have a license to conduct lawful gambling from the State Gambling Board, and comply with Minnesota statutes chapter 349 and this section, shall be permitted to conduct charitable gambling within the City. In the event that no local nonprofit organization chooses to operate an eligible lawful gambling site, the City Council may license a nonlocal, nonprofit organization which complies with all applicable state and local regulations. (Ord. 2023-10, 8-7-2023)

4-3-8: EXPENDITURE OF PROFIT:

Any organization license by the State to conduct lawful gambling shall contribute to the City ten percent (10%) of its net profits derived from lawful gambling operations within the City to a fund administered by the City. For the purpose of this section, the term "net profits" means profits less amounts expended for allowable expenses. All sums received into the fund shall be distributed by the City for a "lawful purpose" as defined in Minnesota Statute ch. 349. Such contribution shall be made no later than seventy five (75) days after the end of the licensee's tax fiscal year. (Ord. 2023-10, 8-7-2023)

4-3-9: RESPONSIBLE PARTIES:

The gambling manager of a licensed organization shall be exclusively responsible for the timely filing of all reports and other documents required by this section. (Ord. 2023-10, 8-7-2023)

4-3-10: MISDEMEANOR VIOLATION; PENALTIES:

Every person who violates any provisions of this section when such person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof or, upon conviction thereof, shall be punished as provided in section 1-4-1 of this Code. Violation shall also be grounds for revoking or nonrenewal of a license. (Ord. 2023-10, 8-7-2023)

CHAPTER 4

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

SECTION:

4-4-1: Purpose

4-4-2: Definitions

4-4-3: Licensing Requirements

4-4-4: Prohibited Hours

4-4-5: Prohibited Practices Generally

4-4-6: Additional Restrictions For Transient Merchants

4-4-7: Noisy Conditions Prohibited

4-4-8: Uninvited Peddling, Soliciting And Canvassing

4-4-9: Duties Of Police

4-4-10: Suspension And Revocation Of License

4-4-11: Exemptions From Provisions

4-4-12: Misdemeanor Violation; Penalty

4-4-1: PURPOSE:

This Section is not intended to in any way hinder, delay or interfere with legitimate business or organizational activities. The Council finds, however, that peddlers, solicitors, and transient merchants have used public streets and their direct contact with residents of the City for the illegitimate solicitation practices of harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This Section is intended to ferret out and control: (1) businesses and organizations using solicitation as a means of concealing unlawful activities; and, (2) businesses and organizations which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and, (3) individual natural persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices. The Council further finds that a large number of the residents of the City are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control. To protect the public's health, safety, and welfare, the City deems it necessary to regulate these practices through a registration process.

(Ord. 2004-14; amd. Ord. 2021-05, 3-15-2021)

4-4-2: DEFINITIONS:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CANVASSER: Any person canvassing for funds door to door in the City on behalf of a charitable, religious or nonprofit organization as defined in internal revenue service code section 501(c)(3).

NON-COMMERCIAL DOOR-TO-DOOR ADVOCATE: A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

PEDDLER: A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personnel property that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.

SOLICITOR: A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

TRANSIENT MERCHANT: Any person, whether as principal, employee or agent, who engages in, does, or transacts any temporary or transient business in the City, either in one locality or traveling from place to place in the City selling goods, wares, and merchandise, and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, vehicle, property, or other place for the exhibition and sale of such goods, wares, and merchandise.

(Ord. 2014-02, 2-18-2014; amd. Ord. 2021-05, 3-15-2021)

4-4-3: LICENSING REQUIREMENTS:

A. License Required; Separate Licenses: It shall be unlawful for any person to engage in the activity of peddling, soliciting, or transient selling without first having obtained a license in compliance with the provisions of this section. A separate license shall be secured for each individual person engaged as a peddler, solicitor or transient merchant.

B. Application For License: The application for the license provided for in this section shall be made to the City Clerk by filing the license fee and by completing an application form as provided by the City Clerk. In addition to such information as the City Clerk may require, the application shall include:

1. The name and date of birth of the applicant and the name of the business that the applicant is associated with.

2. The permanent home address and full local address of the applicant, and the permanent and local telephone numbers of the applicant.

3. A brief written description of the nature of the business, the goods to be sold, and the applicant's method of operation.

4. If employed, the name and address of the applicant's employer, together with credentials establishing the exact relationship.

5. The length of time during which the applicant intends to do business in the city, with the approximate dates.

6. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery.

7. A government issued form of identification which includes a photograph of the applicant.

8. A statement as to whether or not the applicant has been convicted within the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state, federal statute or any local ordinance, other than minor traffic offenses. The City shall conduct a background check including, but not limited to, a criminal history on all individuals listed on the permit to verify the statement.

9. If a vehicle is to be used, a description of the vehicle, together with the license number or other means of identification.

10. A general description of the items to be sold or services to be provided.

11. For transient merchants, the addresses of all places where the business is to be located, along with written permission of the property owner or the property owner's agent for any location to be used by the transient merchant, along with a site plan of the premises upon which they will be conducting business.

12. Any and all additional information as may be deemed necessary by the City Council.

C. License Fee: The license fee for engaging in a transient business, peddling, or soliciting, established in section3-1-3 of this code, shall be paid at the time of application for a license.

D. Restrictions On Issuance To Transient Merchants:

1. Off Street Parking Required: No license for a transient merchant shall be issued for sales from any location which does not have sufficient parking for customers and for areas where customer parking would interfere with normal traffic flow. The zoning administrator must determine that there is adequate off-street parking to serve both the principal use of the property and the transient merchant use of the property.

2. Location Near Intersection: No transient merchant license shall be issued, and no sales shall take place, if the proposed location for transient merchant sales is within one hundred fifty feet (150') of any intersection.

3. Duration Of Sales: No transient merchant license shall be issued for more than one hundred eighty (180) days, during which time period sales shall be limited to no more than thirty (30) days. At the time of the application for the transient merchant license, the applicant shall state the times within the license period to be used by the applicant.

E. Unlawful Use Of License: No license issued under the provisions of this section shall be used at any time by any person other than the one to whom it is issued. No permit issued under this section shall be transferred to any other person or entity.

F. Time of Issuance: A decision on the license will be made within the later of 1) ten business days from receipt of completed application, or 2) five business days after return of background check results unless grounds exist under this section for immediately denying the permit. In the case of a denial the City shall notify the applicant in writing that his/her application is denied, the reason for denial, and that the applicant has the right to appeal the denial as set forth below. Notice shall be delivered in person or by mail to the permanent residential address listed on the permit application, or if no residential address is listed, to the business address provided on the permit application.

G. Grounds for Denial: The following shall be grounds for denying a permit:

1. The applicant has failed to truthfully provide any of the information requested by the City as part of the application or failed to pay the permit fee.

2. Conviction of any crime or crimes directly related to carrying on business as a peddler, solicitor or transient merchant as provided in Minn. Stat. § 364.03, Subd. 2, as it may be amended from time to time, where the applicant has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities as provided in Minn. Stat. § 364.03, Subd. 3, as it may be amended from time to time. Crimes that are considered to be directly related to the business of peddlers, solicitors and transient merchants include but are not limited to crimes

involving assault, criminal sexual conduct, burglary, robbery, fraud, theft murder, manslaughter, rape, child abuse, incest, kidnapping, arson, blackmail, embezzlement, extortion, forgery or larceny.

3. The revocation of any permit issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant within the past five years.

4. The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of substantiated complaints against the applicant with the Better Business Bureau, the Attorney General's office, or other similar business or consumer rights office or agency, within the preceding 12 months; a rating of C or less with the Better Business Bureau or other similar business or consumer rights office or agency; or the existence of substantiated complaints against the applicant with the City or with any other jurisdiction where the applicant performed permit activities within the preceding 3 years.

5. Failure to follow all Federal, State and Local laws, rules and regulations related to permit activities.

6. If the permit activities are to be performed on another person's behalf, the person on whose behalf the permit activities are to be performed would be disqualified under any of the above.

H. Appeal of Denial of License: Any person to whom the City refuses to issue a license may appeal such decision to the City Council by requesting, in writing, to have the decision reviewed by the City Council at the next regularly scheduled City Council meeting. Any person whose license is denied by the City Council under this section shall have the right to appeal that decision in court.

(Ord. 2004-14; amd. Ord. 2021-05, 3-15-2021)

4-4-4: PROHIBITED HOURS:
No business solicitation is permitted between the hours of 8:00 p.m. to 8:00 a.m. (Ord. 2004-14; amd. Ord. 2021-05, 3-15-2021)

4-4-5: PROHIBITED PRACTICES GENERALLY:
No peddler, solicitor, transient merchant or other person engaged in other similar activities shall conduct business in any of the following manner:

A. Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

B. Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.

C. Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.

D. Conducting business before 8 a.m. or after 8 p.m.

E. Failing to provide proof of license, or registration, and identification when requested.

F. Using the license or registration of another person.

G. Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.

H. Remaining on the property of another when requested to leave.

I. Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

J. It is unlawful for any person to engage in business solicitation without first obtaining a license therefor as provided in this section.

K. It is unlawful to violate any conditions placed upon a business solicitation license by the Council.

(Ord. 2004-14; amd. Ord. 2021-05, 3-15-2021)

4-4-6: ADDITIONAL RESTRICTIONS FOR TRANSIENT MERCHANTS:
A. Operation On Public Property: It shall be unlawful for any transient merchant to sell or offer for sale any goods, wares, or merchandise on any public lands or public right of way within the City unless such sale is specifically authorized by the City Council.

B. Operation On Private Property: No transient merchant shall sell or offer for sale any goods, wares, or merchandise within the City from a stationary location on private property at any location where such sales would not be permitted by the zoning ordinance, or without first obtaining the written consent of the property owner or occupant. The written consent must accompany the license application.

C. Space For Off Street Parking And Display Of Merchandise: The space used by the transient merchant, including off street parking in connection therewith, shall not use the space needed for the existing business at the site as set forth in the City's Zoning Ordinance, and in any case, the merchandise displayed shall not occupy more than one hundred (100) square feet.

D. Overnight Storage: No outdoor overnight storage of transient merchant equipment or merchandise shall be permitted.

E. Signs: No signage shall violate the provisions of this code relating to size and number of business signs[1].

(Ord. 2015-06, 8-3-2015; amd. Ord. 2021-05, 3-15-2021)

Notes

1 1. See title 10, chapter 7 of this code.

4-4-7: NOISY CONDITIONS PROHIBITED:
No license holder under this chapter, or any person in his behalf, shall shout, blow a horn, ring a bell or use any sound devices upon any of the streets, alleys, parks, or other public places of the City or upon any private premises in the City.

(Ord. 2004-14; amd. Ord. 2021-05, 3-15-2021)

4-4-8: UNINVITED PEDDLING, SOLICITING AND CANVASSING:
Any resident of the City who wishes to exclude peddlers, canvassers or solicitors from premises occupied by the resident may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice: "Peddlers and Solicitors Prohibited". No peddler, canvasser or solicitor shall enter in or upon any premises, or attempt to enter in or upon any premises, where such a placard or sign is placed and maintained. Violation of this section shall result in the revocation of a duly issued license.

(Ord. 2004-14; amd. Ord. 2021-05, 3-15-2021)

4-4-9: DUTIES OF POLICE:
It shall be the duty of any police officer of the City to require any person seen peddling or engaging in like activities, and who is not known to such officer to be duly licensed, to produce his license and to enforce the provisions of this chapter against any person when in violation of this chapter.

(Ord. 2004-14; amd. Ord. 2021-05, 3-15-2021)

4-4-10: SUSPENSION OR REVOCATION OF LICENSE:
A. Generally. Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

1. Subsequent knowledge by the City of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
2. Fraud, misrepresentation or false statements made during the course of the licensed activity.
3. Subsequent conviction of any offense to which the granting of the license could have been denied under Section 4-4-3.
4. Engaging in any prohibited activity as provided under Section 4-4-5 of this section.
5. Violation of any other provision of this section.

B. Multiple persons under one license. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

C. Notice. Prior to revoking or suspending any license issued under this section, the City shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, of if no residential address is listed, to the business address provided on the license application.

D. Public Hearing. Upon receiving the notice provided in part (C) of 4-4-10, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City clerk within ten (10) days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

E. Emergency. If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this ordinance, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in part (C) of this 4-4-10.

F. Appeal. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(Ord. 2004-14; amd. Ord. 2021-05, 3-15-2021)

4-4-11: EXEMPTIONS FROM PROVISIONS:
A. The permit requirement in this Section does not apply to merchants or their employees delivering goods in the regular course of business; to persons who distribute printed material but who do not make personal contact with the resident thereon; to the daily delivery of newspapers; solicitation of orders for future door delivery of newspapers; to the sale at wholesale to a retailer; to the delivery of perishable food or dairy products to customers on an established delivery route; or to activities associated with the exercise of a person's constitutional rights (freedom of press, speech, religion and the like) providing that no merchandise is concurrently offered for sale.

B. The permit requirement in this Section does not apply to peddlers or solicitors who are 17 years of age or younger, who are engaged in permit activities on behalf of a public school or private school, philanthropic organization, or community organization, which private school, philanthropic organization or community organization or its parent organization is on file with the Minnesota Secretary of State as a Minnesota domestic or a foreign business organization or has filed an assumed name, where the proceeds of the sales are mainly devoted to the benefit of the children engaged in the permit activities.

C. The permit requirement in this Section does not apply to non-commercial door-to-door advocates. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to a commercial activity.

D. The permit requirement in this Section does not apply to the following activities: the sale of farm or garden products upon property in which the products were grown; any sale under court order; garage sales, rummage sales, estate sales conducted on the seller's property; or any sale conducted by a properly licensed auctioneer. The number of the occasions per property shall be limited to three per year, and the duration of each occasion shall be limited to four days.

E. The permit requirement in this Section does not apply to a solicitor or canvasser doing business by appointment. A bona fide appointment is one that is not merely obtained by going door to door in conjunction with the taking of orders, offering for sale or selling.

F. The permit requirement in this Section does not apply to vendors invited to city approved events related to: Friendly City Days, a farmers' market within a City park, Girl Scouts, Boy Scouts, Albertville Fire Department, and any other community event or fundraisers the City Council deems exempt.

(Ord. 2004-14; amd. Ord. 2021-05, 3-15-2021)

4-4-12: MISDEMEANOR VIOLATION; PENALTY:
Every person violates a provision of this chapter when such person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provision hereof, or upon conviction thereof, shall be punished as a misdemeanor as provided in section 1-4-1 of this code.

(Ord. 2017-01, 1-3-2017; amd. Ord. 2021-05, 3-15-2021)

CHAPTER 5

THERAPEUTIC MASSAGE ESTABLISHMENTS

SECTION:

4-5-1: Findings

4-5-2: Definitions

4-5-3: Licenses Required; Exceptions

4-5-4: Stipulation On Licensed Therapists

4-5-5: Applications For Licenses

4-5-6: Verification And Consideration Of Applications

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4-5-12: Licenses To Be Posted Or In Possession

4-5-13: Hours Of Operation

4-5-14: Area And Site Restrictions

4-5-15: Clothing And Coverings; Prohibited Massages

4-5-16: Sanitation And Health Restrictions

4-5-17: Temporary Therapist License

4-5-18: Annual Inspections

4-5-19: Suspension Or Revocation Of Licenses

4-5-1: FINDINGS:
It is found and determined that:

A. Persons who have recognized and standardized training in therapeutic massage, health, and hygiene provide a legitimate and necessary service to the general public;

B. Health and sanitation regulations governing therapeutic massage enterprises and massage therapists will minimize the risk of the spread of communicable diseases and promote health and sanitation;

C. License qualifications for therapeutic massage enterprises and massage therapists will minimize the risk that such businesses and persons may facilitate prostitution and other criminal activity in the city; and

D. Massage services provided by persons without recognized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury. (Ord. 1999-2, 2-1-1999)

4-5-2: DEFINITIONS:
The terms defined in this section have the meanings given them:

CLEAN: The absence of dirt, grease, rubbish, garbage and other offensive, unsightly or extraneous matter.

IN GOOD REPAIR: Free of corrosion, breaks, cracks, chips, pitting, excessive wear, leaks, obstructions and similar defects.

IN THE CITY: Physical presence as well as telephone referral such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from in the city.

MASSAGE: The rubbing, stroking, kneading, tapping or rolling of the body of another person with the hands for the purpose of physical fitness, healthcare referral, relaxation and for no other purpose.

OPERATE: To own, manage or conduct, or to have control, charge or custody over.

THERAPEUTIC MASSAGE ENTERPRISES: A place of business providing massage services to the public for consideration. The term does not include a hospital, sanitarium, rest home, nursing home, boarding home or other institution for the hospitalization or care of other human beings duly licensed under the provisions of Minnesota statutes sections 144A.01 through 144A.10.

THERAPEUTIC MASSAGE THERAPIST: A person who practices or administers massage to the public for consideration. (Ord. 1999-2, 2-1-1999; amd. 2005 Code)

4-5-3: LICENSES REQUIRED; EXCEPTIONS:
A. Therapeutic Massage Enterprise: It is unlawful to operate, offer, engage in or carry on massage services in the city without a therapeutic massage enterprise license.

B. Therapeutic Massage Therapist: It is unlawful to practice, administer or provide massage services in the city without a therapeutic massage therapist license.

C. Exceptions: A therapeutic massage enterprise license or massage therapist license is not required for the following persons and places:

1. Persons licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry; provided, that the massage is administered in the regular course of the medical treatment not provided as part of a separate and distinct massage business;

2. Persons licensed by the state as beauty culturists or barbers, provided the persons do not hold themselves out as giving massage treatments, and provided, that massage by beauty culturists is limited to the head, hand, neck and feet, and the massage by barbers is limited to the head and neck;

3. Persons working solely under the direction and control of a person duly licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry;

4. A place licensed or operating as a hospital, nursing home, hospice, sanitarium or group home established for hospitalization or medical care;

and

5. Athletic coaches, directors, and trainers employed by public or private schools. (Ord. 1999-2, 2-1-1999)

4-5-4: STIPULATION ON LICENSED THERAPISTS:
The owner or operator of a licensed therapeutic massage enterprise may employ only licensed therapeutic massage therapists to provide massage services. The owner or operator of a licensed therapeutic massage enterprise need not be licensed as a therapeutic massage therapist unless that owner or operator personally provides massage services. (Ord. 1999-2, 2-1-1999)

4-5-5: APPLICATIONS FOR LICENSES:
A. Enterprise License: The application for a therapeutic massage enterprise must contain the following information:

1. For all applicants:

a. Whether the applicant is an individual, corporation, partnership or other form of organization.

b. The legal description of the premises to be licensed, together with a plan of the area showing dimensions, location of buildings, street access and parking facilities.

c. The floor number, street number, and rooms where the massage services are to be conducted.

d. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not, the years and amounts that are unpaid.

e. If the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by preliminary plans showing the design of the proposed premises; if the plans for design are on file with the building official, no plans need be submitted.

f. The name and street address of the business if it is to be conducted under a designation, name or style other than the name of the applicant, and a certified copy of the certificate required by Minnesota statutes section 333.02.

g. Other information that the city council may require.

2. For applicants who are individuals:

a. The name and date of birth of the applicant and applicant's residence address.

b. If the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning the dates and places where used.

c. Residence addresses of the applicant during five (5) years preceding the date of application.

d. The type, name and location of every business or occupation the applicant has been engaged in during the preceding five (5) years.

e. Names and addresses of the applicant's employers for the preceding five (5) years.

f. If the applicant has ever been convicted of a felony, crime or violation of an ordinance other than a minor traffic offense; if so, the applicant must furnish information as to the time, place and offense involved in the convictions.

g. If the applicant has ever been engaged in the operation of massage services; if so, the applicant must furnish information as to the name, place and length of time of the involvement in such activity.

3. For applicants that are partnerships:

a. The names and addresses of general and limited partners and the information concerning each general partner described in subsection A2 of this section.

b. The managing partners must be designated, and the interest of each general and limited partner in the business must be disclosed.

c. A true copy of the partnership agreement must be submitted with the application, and if the partnership is required to file a certificate as to a trade name under Minnesota statutes section 333.02, a certified copy of that certificate must be submitted. The license, if issued, will be in the name of the partnership.

4. For applicants that are corporations:

a. The name of the organization, and if incorporated, the state of incorporation.

b. A true copy of the certificate of incorporation, and if a foreign corporation, a certificate of authority as described in Minnesota statutes section 333.02.

c. The name of the general manager, corporate officers, proprietor, and other persons in charge of the premises to be licensed, and the information about those person described in subsection A2 if this section.

d. A list of the persons who own or have a controlling interest in the corporation or organization or who are officers of the corporation or organization, together with their addresses and the information regarding such persons described in subsection A2 of this section.

B. Therapist: An application for a therapeutic massage therapist license must contain the following information:

1. The applicant's name and address.

2. The applicant's current employer.

3. The applicant's employers for the previous five (5) years, including the employers' names, addresses and dates of employment.

4. The applicant's residence address for the previous five (5) years.

5. The applicant's social security number, date of birth, home telephone number, weight, height, color of eyes and color of hair.

6. If the applicant has ever been convicted of a felony, crime or violation of an ordinance other than a minor traffic offense, and if so, the time, place and offense involved in the convictions.

7. If the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.

8. a. Evidence that the applicant:

(1) Has current insurance coverage over one million dollars ($1,000,000.00) for professional liability in the practice of massage;

(2) Is affiliated with, employed by or owns a therapeutic massage enterprise licensed by the city;

(3) Has completed four hundred (400) hours of certified therapeutic massage training from a recognized school that has been approved by the city council; or

(4) Has one year of experience practicing massage therapy as established by an affidavit and can document, within two (2) years of obtaining the license, that the person has completed four hundred (400) hours of certified therapeutic massage training from a recognized school; if such documentation cannot be established at the time of license renewal, the license will not be renewed, and the person who received the license based upon experience may not receive a license in the future unless the person has the requisite certified hours.

b. The minimum requirement of massage training specified in subsections B8a(3) and B8a(4) of this section does not apply to a massage therapist:

(1) Employed by an establishment licensed for massage on the effective date hereof; and

(2) Continuously employed since that date by the licensed establishment.

9. Other information that the city council may require. (Ord. 1999-2, 2-1-1999)

4-5-6: VERIFICATION AND CONSIDERATION OF APPLICATIONS:

A. Enterprise License: The city administrator must verify the information supplied on the license application and investigate the background, including the criminal background, of the applicant to assure compliance with this section. Within ninety (90) days of receipt of a complete application and fee for a therapeutic massage enterprise license, the city administrator must make a written recommendation to the city council as to issuance or nonissuance of the license. The city council may order additional investigation if it deems it necessary, but must grant or deny the application within one hundred twenty (120) days of receipt by the city administrator of the complete application and required fees.

B. Therapist License: Within ninety (90) days of receipt of a complete application and fee for a therapeutic massage therapist license, the city administrator must grant or deny the application. Notice will be sent to the applicant upon a denial informing the applicant of the right to appeal to the city council within twenty (20) days. If an appeal is properly made, the matter will be placed on the next available city council agenda. (Ord. 1999-2, 2-1-1999)

4-5-7: LICENSE AND INVESTIGATION FEES:

The fees for massage enterprise and therapist licenses are as established in section3-1-3 of this code. An investigation fee as established per section 3-1-3 of this code will be charged for therapeutic massage enterprise licenses. An application for either license must be accompanied by payment in full of the required license and investigation fees, if applicable. (Ord. 2017-01, 1-3-2017)

4-5-8: PERSONS INELIGIBLE FOR LICENSES:

A. Enterprise License: A therapeutic massage enterprise license may not be issued to an individual who:

1. Is a minor at the time the application is filed.

2. Has been convicted of any crime directly related to the occupation as prescribed by Minnesota statutes section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minnesota statutes section 364.03, subdivision 3.

3. Is not of good moral character or repute.

4. Is not the real party in interest of the enterprise.

5. Has misrepresented or falsified information on the license application.

B. Therapist License: A therapeutic massage therapist license may not be issued to a person who could not qualify for a therapeutic massage enterprise license or who is not affiliated with, employed by, or does not hold a therapeutic massage enterprise license. (Ord. 1999-2, 2-1-1999)

4-5-9: LOCATIONS INELIGIBLE FOR ENTERPRISE LICENSE:

A. Delinquent Taxes: A therapeutic massage enterprise may not be licensed if the enterprise is located on property on which taxes, assessments or other financial claims to the state, county, school district or city are due and delinquent. In the event a suit has been commenced under Minnesota statutes sections 278.01 through 278.13, questioning the amount or validity of the taxes, the city council may, on application, waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due.

B. Improper Zoning: A therapeutic massage enterprise may not be licensed if the location of such enterprise is not in conformance with the zoning ordinance [1] . (Ord. 1999-2, 2-1-1999)

Notes

[1] 1. As per appendix A of this code, massage establishments are allowed in the B-2, B-2A, B-3, B-4 and B-W zoning districts.

4-5-10: TERM AND RENEWAL OF LICENSES:

Licenses expire annually on December 31. The license fee will be prorated in thirty (30) day increments for licenses issued after June 30. The city administrator must prepare an application form for the renewal of a license requiring information that the administrator determines necessary for consideration of the renewal. The renewal application must be made no later than November 30. (Ord. 1999-2, 2-1-1999)

4-5-11: NONTRANSFERABILITY OF LICENSE:

The license issued is for the person or the premises named on the approved license application. Transfer of a license from place to place or from person to person is not permitted. (Ord. 1999-2, 2-1-1999)

4-5-12: LICENSES TO BE POSTED OR IN POSSESSION:

A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is issued. A person licensed as a therapeutic massage therapist must have in possession a copy of the license when therapeutic massage services are being rendered. (Ord. 1999-2, 2-1-1999)

4-5-13: HOURS OF OPERATION:

A licensed therapeutic massage enterprise may not operate for business between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. (Ord. 1999-2, 2-1-1999)

4-5-14: AREA AND SITE RESTRICTIONS:
A therapeutic massage enterprise license is effective only for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered or extended, the licensee must inform the city administrator. A licensed therapeutic massage therapist may perform on site massage at a business, public gathering, private home or other site not on the therapeutic massage enterprise premises. (Ord. 1999-2, 2-1-1999)

4-5-15: CLOTHING AND COVERINGS; PROHIBITED MASSAGES:
A. Clothing And Coverings: The therapist must require that the person who is receiving the massage will at all times have that person's breasts, buttocks, anus and genitals covered with nontransparent material or clothing. A therapist performing massage must have the therapist's breasts, buttocks, anus and genitals covered with a nontransparent material or clothing.

B. Prohibited Massages: A therapist may not intentionally massage or offer to massage the penis, scrotum, mons veneris, vulva or vaginal area of a person. (Ord. 1999-2, 2-1-1999)

4-5-16: SANITATION AND HEALTH RESTRICTIONS:
A. Toilet Rooms: A therapeutic massage enterprise must be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet rooms must be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet rooms must be kept clean and in good repair and be fully and adequately illuminated.

B. Paper, Linens And Sanitizing Furniture:

1. A therapeutic massage enterprise must provide single service disposable paper or clean linens to cover the table, chair, furniture or area on which the patron receives the massage. If the table, chair or furniture on which a patron receives the massage is made of material impervious to moisture, such table, chair or furniture must be sanitized after each massage.

2. Massage tables, chairs or furniture on which the patron receives the massage must have surfaces that can be readily disinfected after each massage.

C. Disinfection Of Therapist Hands And Arms; Clothing:

1. The therapeutic massage therapist must wash the therapist's hands and arms with water and soap, antibacterial scrubs, alcohol or other disinfectants prior to and following each massage service performed.

2. Massage therapists must wear clean clothing when performing massage services.

D. Lighting: Rooms in a therapeutic massage enterprise must be fully and adequately illuminated.

E. Storage Area: A therapeutic massage enterprise must have a janitor's closet that provides for the storage of cleaning supplies.

F. Refuse Receptacles: Therapeutic massage enterprises must provide adequate refuse receptacles that must be emptied as required by this code [1] .

G. Maintenance And Repair: Therapeutic massage enterprises must be maintained in good repair and sanitary condition.

H. Clean Air: Therapeutic massage enterprises must comply with the requirements of the Minnesota indoor clean air act [2] .

I. Safeguarding Against Disease Conditions: A therapeutic massage enterprise must take reasonable steps to prevent the spread of infections and communicable diseases on the licensed premises. (Ord. 1999-2, 2-1-1999)

Notes

1 1. See subsection 5-7-2A of this code.

2 1. MSA § 144.411 et seq.

4-5-17: TEMPORARY THERAPIST LICENSE:
A. Authority To Issue: The city administrator may issue a temporary therapeutic massage license as provided in this section.

B. Persons Eligible: A temporary massage therapist license may be issued to a person who:

1. Is qualified to hold a massage license under this section.

2. Has completed the required application and paid the license fee at least seven (7) days prior to the effective date of the license.

C. Term And Number Of Licenses: A temporary license is effective for four (4) consecutive days. A person may not be issued more than three (3) temporary licenses in any period of three hundred sixty (360) days.

D. Application Of Provisions: All other provisions of this chapter apply to temporary licenses. (Ord. 1999-2, 2-1-1999)

4-5-18: ANNUAL INSPECTIONS:
The building official shall annually inspect the licensee's place of business within sixty (60) days prior to license renewal for compliance with this code. (2005 Code)

4-5-19: SUSPENSION OR REVOCATION OF LICENSES:
A license granted under this chapter may be suspended or revoked by the city council for the reasons and under the procedures specified by the city. (Ord. 1999-2, 2-1-1999; amd. 2005 Code)

CHAPTER 6

CABLE SERVICE GUIDELINES

SECTION:

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4-6-25: Administration And Enforcement Of Franchise

4-6-1: SHORT TITLE:
This chapter will be known and cited as the*CABLE ORDINANCE*. (Ord. 2003-7, 4-7-2003)

4-6-2: FINDINGS:
The city finds that multiple providers may be interested in providing cable service in the city. The city is authorized to grant one or more nonexclusive franchises to provide cable service in the city [1] . (Ord. 2003-7, 4-7-2003)

Notes

1 1. See appendix B-3 of this code.

4-6-3: INTENT:
The city's intent in adopting this chapter is to further the public interest in the delivery of cable service and ensure that all providers of cable service are subject to comparable burdens consistent with applicable law. This chapter may encourage further development of, and competitive choices for, cable service and related communications services in the city. Such a development could contribute significantly to the communication needs and desires of residents of the city, benefit local economic development, and improve public and municipal services. (Ord. 2003-7, 4-7-2003)

4-6-4: DEFINITIONS AND INTERPRETATION:
For the purposes of this chapter, the following terms, phrases, words, and their derivations must have the meanings given herein. Terms, phrases and words contained in this chapter that are not defined herein or in a franchise will have their normal and customary meanings. When not inconsistent with the context, words in the singular number include the plural number; the words "must" and "will" are always mandatory and not merely directory; the word "may" is directory and discretionary and not mandatory.

BASIC CABLE SERVICE: Any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by a franchise.

CABLE PROGRAMMING SERVICE: Any video programming regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

A. Basic cable service;

B. Video programming offered on a pay per channel or pay per program basis; or

C. A combination of multiple channels of pay per channel or pay per program video programming offered on a multiplexed or time shifted basis so long as the combined service consists of commonly identified video programming and is not bundled with any regulated tier of service.

CABLE SERVICE: A. The one-way transmission to subscribers of: 1) video programming; or 2) other programming service; and

B. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

CABLE SYSTEM OR SYSTEM: A system of antennas, cables, wires, lines, towers, waveguides, or other conductors, terminal devices, equipment, or facilities located in whole, or in part, in the City and designed and constructed for the purpose of producing, receiving, transmitting, amplifying, or distributing cable service in the City. A "cable system" may be designed and constructed to be capable of delivering services in addition to cable services.

CHANNEL: A portion of the electromagnetic frequency spectrum which is used in a system and which is capable of delivering a television channel (as defined by the FCC).

CITY: The City of Albertville, Minnesota, a Municipal corporation, in the State of Minnesota.

COMPETITION: The offering of cable service to substantially the same potential customers in the City by two (2) or more providers pursuant to franchises.

DROP: The cable that connects the ground block on the subscriber's terminal device to the nearest feeder cable of the system.

FCC: The Federal Communications Commission, or its lawful successor.

FRANCHISE, CABLE FRANCHISE OR FRANCHISE AGREEMENT: An agreement between the City and any provider of cable service pursuant to this chapter granting an initial authorization, or renewal thereof, to provide cable service or operate a system in the City.

FRANCHISE FEE: The fee or assessment imposed by the City on a grantee solely because of its status as a recipient of a franchise. The term "franchise fee" does not include: a) any tax, fee or assessment of general applicability; b) capital costs which are required by the franchise related to the provision of public, educational, or governmental access facilities; c) requirements or charges incidental to awarding or enforcing the franchise, including payments for bonds, security funds or letters of credit, insurance, indemnification, penalties or liquidated damages; d) any fee imposed under title 17 of the United States Code.

GRANTEE: Any recipient of a franchise, and its agents and employees, lawful successors, transferees or assignees.

GROSS REVENUES: All revenues received by a grantee, or its affiliates, from the sale or provision of cable service in the City. By way of example and not limitation, "gross revenues" shall include all carriage revenues received by a grantee or its affiliates from unaffiliated video programming providers, and any advertising revenues received by a grantee or its affiliates in connection with the provision of cable service. "Gross revenues" shall not include bad debt, any taxes or fees on services furnished by grantee imposed by any municipality, state, or other governmental unit and collected by grantee for such governmental unit, or revenues received by a grantee or its affiliates from the provision of non-cable services in the City.

INSTALLATION: The connection of the system with the subscriber terminal device.

LOCKOUT DEVICE: An optional mechanical or electrical accessory to a terminal device which inhibits the viewing of a certain channel or channels provided over the cable system.

NORMAL BUSINESS HOURS: Those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

NORMAL OPERATING CONDITIONS: Those service conditions which are within the control of a grantee. Those conditions which are not within the control of a grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of a grantee include, but are not limited to, special promotions, pay per view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of a grantee's facilities.

PEG ACCESS FACILITIES: Public, educational, and governmental programming channels, or any equipment or facilities for use of such channels.

PAY TELEVISION: The delivery of pay per channel or pay per program audiovisual signals to subscribers for a fee or charge, in addition to the charge for basic cable service or cable programming services.

PERSON: Any natural person, firm, partnership, association, corporation, company, or other legal entity.

RIGHT-OF-WAY OR RIGHTS-OF-WAY: The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the local government unit has an interest, including other dedicated rights-of-way for travel purposes and utility easements of local government units. "Right- of-way" does not include the airwaves above a right-of-way with regard to wireless or other nonwire telecommunications or broadcast service.

RIGHT-OF-WAY ORDINANCE [1] : An ordinance adopted by the City creating requirements regarding regulation, management and use of rights-of-way, including registration and permitting requirements.

STANDARD INSTALLATION: Any residential installation that can be completed using a drop of one hundred fifty feet (150') or less.

SUBSCRIBER: Any person who lawfully receives cable service via a system.

TELECOMMUNICATIONS SERVICES: Shall have the meaning ascribed in 47 USC section 153(46), as may be explained or interpreted by final action of the FCC.

TERMINAL DEVICE: An electronic device that converts signals to a form accessible by the subscriber. (Ord. 2003-7, 4-7-2003; amd. Ord. 2019-02, 1-7-2019)

Notes

1 1. See title 8, chapter 2 of this Code.

4-6-5: FRANCHISE AND COMPLIANCE REQUIRED; SCOPE:
No person may provide cable service in the City, nor operate a cable system in the City, unless and until such person is granted a franchise. All franchises must be granted pursuant to the provisions of this chapter, and any franchise granted hereunder will authorize the grantee to deliver cable service and construct, operate and maintain a cable system in the rights-of- way in the City. (Ord. 2003-7, 4-7-2003)

4-6-6: NONEXCLUSIVE FRANCHISE:
All franchises shall be nonexclusive, and the City may grant additional franchises at any time. To the extent required by applicable law, the City will not grant a franchise for an area included in an existing franchise on terms and conditions more favorable or less burdensome than those in the existing franchise pertaining to: a) the area served; b) public, educational, or governmental access requirements; or c) franchise fees, unless the area in which the additional franchise is being sought is not actually being served by any existing grantee. The City may impose additional terms and conditions on any additional franchises. (Ord. 2003-7, 4-7-2003)

4-6-7: COMPLIANCE WITH FEDERAL AND STATE LAWS; TIME CONSTRAINTS:
A. This chapter and franchises granted pursuant hereto are intended to comply with Minnesota Statutes chapter 238. Any applicable requirement established by Minnesota Statutes section 238.084 not expressly incorporated in this chapter or a franchise shall be deemed incorporated by reference in the franchise as though fully set forth therein.

B. The City and grantee will conform to State laws and rules regarding cable service or the system not later than one year after they become effective, unless otherwise stated, and conform to Federal laws and regulations regarding cable as they become effective. (Ord. 2003-7, 4-7-2003)

4-6-8: TERM OF FRANCHISE:
Franchises will be granted for a term established in the franchise agreement. No franchise may be granted for a period exceeding fifteen (15) years from the date of acceptance by grantee. (Ord. 2003-7, 4-7-2003)

4-6-9: INITIAL FRANCHISE APPLICATIONS:
A. Initiation And Filing Of Application: Upon request or its own initiative, the City may initiate the cable franchise application process required by Minnesota Statutes section 238.081. Any person desiring an initial franchise must file an application with the City. (Ord. 2003-7, 4-7-2003)

B. Fee: The City Council, by resolution, will establish an application fee in an amount to offset the costs of processing applications and awarding a franchise. Such application fees will not constitute a franchise fee. (Ord. 2003-7, 4-7-2003; amd. 2005 Code)

C. Report And Recommendations: Upon receipt of an application for a franchise, City staff will prepare a report and recommendations to the City Council regarding the application(s).

D. Hearing: A public hearing concerning applications will be held prior to rejection or acceptance of applications and award of any franchises. (Ord. 2003-7, 4-7-2003)

4-6-10: FRANCHISE FEE:
A. A grantee must pay to the City a franchise fee in the amount established in the Franchise Agreement.

B. Franchise fee payments are payable quarterly. Franchise fee payments must be made within sixty (60) days of the end of each calendar quarter.

C. Each franchise fee payment must be accompanied by a report approved by an employee of the grantee in form reasonably acceptable to City, detailing the computation of the payment. All amounts paid must be subject to audit and recomputation by the City and acceptance of any payment must not be construed as an accord that the amount paid is in fact the correct amount.

D. A grantee may designate that portion of a subscriber's bill attributable to the franchise fee as a separate line item on the bill. (Ord. 2019-02, 1-7-2019)

4-6-11: INDEMNIFICATION AND INSURANCE:
A. Indemnification Of City:

1. A grantee must indemnify, defend and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents from and against any loss or damage to any real or personal property of any person, or for any injury to or death of any person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to a system or other facilities used by a grantee to deliver cable service.

2. A grantee must indemnify, defend, and hold the City, its officers, boards, committees, commissions, elected officials, employees and agents, harmless from and against all lawsuits, claims, actions, liability, damages, costs, expenses or penalties incurred as a result of the award or enforcement of a franchise.

3. A grantee shall not be required to provide indemnification or defense for any intentional misconduct, wilful neglect or negligence by an indemnified party, for any enforcement action taken by the City against a grantee, or for any claim based solely on the City's operation of PEG access facilities, delivery of PEG access programming, or EAS messages originated by the City. Subject to the limitations in Minnesota Statutes chapter 466, the City shall indemnify, defend and hold a grantee harmless from any damage resulting from any intentional misconduct, wilful neglect or negligence by the City, its officers, boards, committees, commissions, elected officials, employees and agents, in utilizing PEG access facilities or channels, delivering EAS messages originated by the City, or in connection with work performed on or adjacent to the system.

4. With respect to each claim for indemnification:

a. The City must promptly notify the grantee in writing of any suit, claim or proceeding which gives rise to such right;

b. The grantee must afford the City an opportunity to participate in any compromise, settlement or other resolution or disposition of any suit, claim or proceeding; and

c. The City must cooperate with reasonable requests of the grantee, at grantee's expense, in its participation in a suit, claim or proceeding.

B. Insurance:

1. A grantee must obtain and maintain in full force and effect, at its sole expense, a comprehensive general liability insurance policy, in protection of the grantee, and the City, its officers, elected officials, boards, commissions, agents and employees for damages which may arise as a result of operation of the system or delivery of cable service.

2. The policies of insurance must be in the sum of not less than one million dollars ($1,000,000.00) for personal injury or death of any one person, and two million dollars ($2,000,000.00) for personal injury or death of two (2) or more persons in any one occurrence, five hundred thousand dollars ($500,000.00) for property damage to any one person and two million dollars ($2,000,000.00) for property damage resulting from any one act or occurrence.

3. The insurance policy must be maintained by grantee in full force and effect during the entire term of the franchise. Each policy of insurance must contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of grantee or for other reasons, except after sixty (60) days' advance written notice has been provided to the City. (Ord. 2003-7, 4-7-2003)

4-6-12: RENEWAL OF FRANCHISE:
Franchise renewals will be conducted in accordance with applicable laws. (Ord. 2019-02, 1-7-2019)

4-6-13: PERIODIC EVALUATION OF GRANTEE:
The performance of any grantee is subject to periodic evaluation by the City upon reasonable notice to the grantee. (Ord. 2003-7, 4-7-2003)

4-6-14: TRANSFER, TERMINATION OR ABANDONMENT OF FRANCHISE:
A. Termination Or Abandonment Of Service:

1. A grantee may not abandon the system without having first given three (3) months' written notice to the City.

2. In the event of termination or forfeiture of the franchise or abandonment of the system, the City may require the grantee to remove all or any portion of its system from all rights-of-way and public property within the City; provided, however, that the grantee will not be required to remove its system to the extent it lawfully provides other services over the system.

3. If the grantee has failed to commence removal of its system, or such part thereof as was designated by the City, within one hundred twenty (120) days after written demand for removal is given, or if the grantee has failed to complete such removal within twenty four (24) months after

written demand for removal is given, the City may apply funds secured by the franchise toward removal and/or declare all right, title, and interest in the system to be in the City with all rights of ownership including, but not limited to, the right to operate the system or transfer the system to another for operation by it pursuant to the provisions of 47 USC section 547. (Ord. 2019-02, 1-7-2019)

B. Sale Or Transfer Of Franchise:

1. No sale or transfer of ownership of a grantee or "fundamental corporate change" in a grantee, as defined in Minnesota Statutes section 238.083, nor sale or transfer of a franchise is permitted without City approval. Any sale or transfer of stock in a grantee creating a new controlling interest constitutes a sale or transfer of ownership. A "controlling interest" includes majority stock ownership or a lesser amount sufficient to confer actual working control in whatever manner exercised. City approval is not be required where a grantee grants a security interest in its franchise or system to secure an indebtedness.

2. A grantee must file a written request with the City prior to any transaction described above. The City will approve or deny a transfer request within one hundred twenty (120) days of receipt of a written request. The City will not unreasonably withhold its approval.

3. In no event will a transaction be approved unless the transferee becomes a signatory to, and assumes all rights and obligations under, the franchise.

4. In the event of any proposed transaction described above, the City will have the right to purchase the system. In the event a grantee has received a bona fide offer for purchase of its system, the City shall have the right to purchase for the price which the proposed assignee or transferee agreed to pay. The City will be deemed to have waived its right to purchase the system in the following circumstances:

a. The City does not notify the grantee in writing, within ninety (90) days of notice, that it intends to exercise its right of purchase; or

b. The City approves the transaction. (Ord. 2003-7, 4-7-2003)

4-6-15: REGULATION OF CABLE SERVICE:
The requirements of this chapter define the City's regulatory authority over cable services and cable systems. All grantees are subject to all lawful exercise of the City's police power, ordinance making authority, and power of eminent domain. The terms of a franchise agreement define the contractual rights and obligations of the City and the grantee thereunder. (Ord. 2003-7, 4-7-2003)

4-6-16: USE OF RIGHTS-OF-WAY:
A. Use of the rights-of-way to provide cable service and operate a cable system must not be inconsistent with the terms and conditions by which such rights-of-way were created or dedicated and is subject to all legal requirements related to the use of such rights-of-way.

B. The City may adopt and enforce a Right-of-Way Ordinance[1], and all grantees shall be subject to such Right-of-Way Ordinance. To the extent that rights, duties and obligations regarding the use of rights-of-way are specifically addressed in a franchise, such franchise terms shall prevail over any conflicting provisions of a Right-of-Way Ordinance. The terms of the Cable Ordinance shall be subordinate to any conflicting provisions of a Right-of-Way Ordinance. A grantee shall not, through adoption or amendment of a Right-of-Way Ordinance, be subject to additional burdens or obligations with respect to usage of the right-of-way which exceed the burdens on other users of the right-of-way under a Right-of-Way Ordinance.

C. The City may construct, maintain, repair or relocate sewers; grade, pave, maintain, repair, relocate and/or alter any right- of-way; construct, repair, maintain or relocate water mains; or construct, maintain, relocate, or repair any sidewalk or other public work.

D. All system facilities, lines and equipment in the City must be located so as not to obstruct or interfere with the proper use of rights-of-way, alleys and other public ways and places, and cause minimum interference with the rights of property owners who abut any of the said rights-of-way, alleys and other public ways and places, and not interfere with existing public utility installations. (Ord. 2003-7, 4-7-2003)

E. Upon thirty (30) days' prior written notice, the grantee shall make available for inspection by the City maps, plats, or other record of the location and character of facilities constructed in the City, including underground facilities, as the City may need for the management of any portion of its rights-of-way. Consistent with applicable State law, grantee may identify such maps, plats or other records as "confidential trade secret", and the City shall comply with all State laws regarding the protection and dissemination of such materials. (Ord. 2019-02, 1-7-2019)

F. If the City alters or changes the grade or location of any right-of-way, alley or other public way, a grantee shall, at its own expense, upon reasonable notice by City, remove and relocate poles, wires, cables, conduits, manholes and other system fixtures, and in each instance comply with the standards and specifications of the City. If the City reimburses other occupants of the right-of-way, the affected grantee will be likewise reimbursed.

G. Grantees shall not place poles, conduits, or other system fixtures where the same will interfere with any gas, electric, telephone, water or other utility fixtures, and all such poles, conduits, or other fixtures placed in any right-of-way shall be so placed as to comply with all lawful requirements of the City.

H. A grantee will, on request of any person holding a moving permit issued by the City, temporarily move wires or fixtures to permit the moving of buildings, with the expense of such temporary removal to be paid by the person requesting the same, and the grantee will be given no less than ten (10) business days' advance notice to arrange for such temporary changes.

I. A grantee will be liable for the failure to exercise reasonable care during construction, operation or maintenance of a system. (Ord. 2003-7, 4-7-2003)

Notes

1 1. See title 8, chapter 2 of this Code.

4-6-17: TREE TRIMMING:
A grantee is authorized to trim any trees upon and overhanging the rights-of-way, alleys, sidewalks, or public easements of the City so as to prevent the branches of such trees from coming in contact with wires and cables of a system. The City may supervise tree trimming activities and condition the authority to trim trees as it deems appropriate. (Ord. 2003-7, 4-7-2003)

4-6-18: CONSTRUCTION STANDARDS[1]:
A. Registration, Permits And Construction Codes:

1. Within ninety (90) days of acceptance of a franchise, a grantee shall apply for any necessary governmental permits, licenses, certificates, and authorizations to construct, repair, replace, relocate, operate, maintain or reconstruct a system. Grantees may submit permit applications as construction progresses, as agreed upon, with the City. Grantees must strictly adhere to all State and local laws and Building and Zoning Codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the facilities used to provide cable service in the City.

2. The City may inspect any construction or installation work performed pursuant to the provisions of a franchise. The City may make such tests as it must find reasonably necessary to ensure compliance with the terms of this chapter, the franchise, and applicable provisions of local, State and Federal law.

B. Repair Of Rights-Of-Way And Property:

1. Any rights-of-way or other property disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of a cable system shall be promptly and fully restored by the grantee performing such work, at its expense, to a condition as good as that prevailing prior to such work.

2. If a grantee fails to promptly perform the restoration required herein, the City shall have the right, following ten (10) business days' written notice to grantee, to restore rights- of-way and other public property to a condition as good as that prevailing prior to the grantee's work. The City shall be fully reimbursed by the grantee for its actual costs relating to such restoration. (Ord. 2003-7, 4-7-2003)

C. Undergrounding Of Facilities:

1. In all areas of the City where utility facilities are required to be placed underground, or where all other utility lines are underground, all grantees must construct and install system facilities underground.

2. Amplifier boxes and pedestal mounted terminal boxes may be placed aboveground, but such facilities shall be of such size, design, and location as not to be unsightly or unsafe, as approved by the City.

3. A grantee must bury new drops within a reasonable time period. In the event the ground is frozen, a grantee will be permitted to delay burial until the ground is suitable for burial. (Ord. 2019-02, 1-7-2019)

D. Erection, Removal And Joint Use Of Poles:

1. In any area of the City where facilities may be located aboveground, a grantee must make use of existing poles and other facilities to the extent technically and economically feasible.

2. No poles, aboveground conduits, amplifier boxes, similar structures, or other wireholding structures may be erected or installed by the grantee on public property without prior approval of the City with regard to location, height, type and other pertinent aspects.

3. All facilities are subject to applicable zoning and other land use regulations.

E. Safety Requirements:

1. A grantee must at all times employ ordinary and reasonable care in the construction, installation and maintenance of system facilities and must use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. All system facilities must at all times be kept and maintained in good condition, order, and repair so that the same must not menace or endanger the life or property of the City or any person.

2. A grantee must install and maintain equipment and facilities in accordance with all applicable Federal, State and local laws and regulations, and the requirements of the National Electrical Code and in such manner that they will not interfere with private radio, police and fire communications or any installations of the City or of any public utility serving the City. (Ord. 2003-7, 4-7-2003)

Notes

[1] 1. See section 3-1-3 of this Code for excavation permit fee.

4-6-19: SYSTEM DESIGN AND EXTENSION PROVISIONS:

A. System Capacity And Channels: At a minimum, any franchise granted hereunder shall describe the grantee's network in terms of the total system capacity such as the total number of analog and digital video channels which can be provided, and the minimum number of video channels which will be offered.

B. Cable Service Availability:

1. Any franchise granted hereunder may authorize cable service throughout the City, or a portion thereof.

2. Each franchise will identify a required service area. A grantee will be required to offer cable service to all dwellings, homes and businesses within its required service area. Franchises may authorize and require cable service throughout the corporate boundaries of the City, as it exists from time to time, or such smaller area as the City reasonably and lawfully deems appropriate and is agreeable to the grantee.

3. Any franchise granted hereunder may establish requirements for the extension of the system and provision of cable service beyond the initially required service area.

4. Cable service shall not be denied to any group of potential residential cable subscribers because of the income of the residents of the area in which such group resides.

C. Nonstandard Installations: A grantee must provide cable service to any person requesting other than a standard installation; except, that a grantee may charge for the incremental increase in material and labor costs incurred above the cost of making a standard installation.

D. Technical Standards: Any system offering cable service in the City must comply, at a minimum, with the technical standards promulgated by the FCC relating to cable systems pursuant to title 47 sections 76.601 to 76.617, as may be amended or modified from time to time.

E. System Testing:

1. In the event the City finds that there are signal or system performance difficulties which may constitute violations of applicable FCC technical standards, the grantee will be notified and afforded ten (10) days to correct problems or complaints. If the performance difficulty is not resolved within ten (10) days in the City's sole determination, the City may require the grantee to demonstrate compliance via testing or other means selected by the grantee.

2. If the performance difficulty is not timely resolved, the City may test any system or facilities used to provide cable service in the City. The City will seek to arrange its testing so as to minimize hardship or inconvenience to grantee and subscribers. In the event that testing reveals that the source of the technical difficulty is within the grantee's control, the cost of the testing must be borne by the grantee. If the testing reveals the difficulties to be caused by factors that are beyond grantee's control, the cost of the testing must be borne by the City.

F. FCC Reports: Grantees must, upon written request from the City, file all required FCC technical reports with the City.

G. Nonvoice Return Capability: Grantees are required to provide a system with capacity and technical capability to provide nonvoice return communications.

H. Lockout Device: Grantees shall provide by sale or lease a lockout device to any requesting subscriber. (Ord. 2003-7, 4-7-2003)

I. Emergency Alert System: Grantee shall provide emergency alert override capabilities in a manner consistent with the FCC's emergency alert system ("EAS") rules and consistent with any applicable State and regional EAS plans adopted in response thereto. (Ord. 2019-02, 1-7-2019)

4-6-20: CONSUMER PROTECTION AND CUSTOMER SERVICE STANDARDS:

A. Enforcement Of Customer Service Standards: This section shall be fully applicable except during periods when competition exists in the City. The City will stay and not enforce this section during periods when competition exists in the City; except, that the City may initiate enforcement of this section while competition exists in the event the City receives, in any thirty (30) day period, at least five (5) written complaints with respect to each competitor concerning similar customer service issues. In such case, the City Council may initiate enforcement of this section by adopting a resolution indicating the basis for initiating enforcement. (Ord. 2003-7, 4-7-2003)

B. Regulation Of Cable Service Rates:

1. The City may regulate rates for the provision of cable service to the extent allowed under Federal or State law(s).

2. Grantees must give the City and subscribers written notice of any change in a cable service rate or charge no less than thirty (30) days prior to the effective date of the change. (Ord. 2019-02, 1-7-2019)

C. Sales Procedures: A grantee may not exercise deceptive sales procedures when marketing any of its cable services within the City. Grantees may conduct marketing consistent with local ordinances and other applicable laws and regulations.

D. Telephone Inquiries And Complaints:

1. Grantees must maintain local, toll free or collect call telephone access lines which will be available to its subscribers twenty four (24) hours a day, seven (7) days a week.

2. During normal business hours, trained representatives of grantee must be available to respond to subscriber inquiries. Grantees must ensure that: a) an adequate number of trained company representatives will be available to respond to customer telephone inquiries during normal business hours; and b) after normal business hours, the access line will be answered by a trained company representative or a service or an automated response system such as an answering machine.

3. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

E. Telephone Answer Time And Busy Signals:

1. Under normal operating conditions, telephone answer time by a customer representative, including wait time, must not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time must not exceed thirty (30) seconds.

2. These standards must be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis. Under normal operating conditions, the customer must receive a busy signal less than three percent (3%) of the time.

F. Installation, Outage And Service Calls: Under normal operating conditions, each of the following standards will be met no less than ninety five percent (95%) of the time, measured on a quarterly basis:

1. Excluding conditions beyond the control of a grantee which prevent performance, grantees will begin working on service interruptions promptly, and in no event later than twenty four (24) hours after the interruption becomes known, and grantees must begin actions to correct other service problems the next business day after notification of the service problem and resolve such problems as soon as is reasonably possible.

2. The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four (4) hour time block during normal business hours. Grantees may schedule service calls and other installation activities outside of normal business hours for the convenience of the customer.

3. A grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

4. If a representative of a grantee is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time during normal business hours which is convenient for the customer.

G. Complaint And Other Service Records:

1. Upon written request by the City, and subject to a grantee's obligation to maintain the privacy of certain information, grantees must prepare and maintain written records of all complaints received and the resolution of such complaints, including the date of such resolution.

2. Written complaint records must be on file at the office of a grantee. Upon written request by the City, grantees must provide the City with a written summary of such complaints and their resolution on a quarterly basis and in a form mutually agreeable to the City and grantee.

3. Upon written request by the City, grantees must provide detailed compliance reports on a quarterly basis with respect to the objectively measurable service standards required in this subsection. A grantee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards contained in this section unless a historical record of complaints indicates a failure to comply.

H. Subscriber Contracts: Grantees must provide to the City upon request any standard form subscriber contract utilized. If no such written contract exists, grantee must provide a document completely and concisely stating the length and terms of the subscriber contract offered to customers.

I. Video Programming: All franchises will identify the initial video channels to be provided by a grantee. In accordance with 47 USC section 544(b), prior City approval is required for any change in the broad categories of video programming provided. Individual programming decisions may be made in the discretion of a grantee.

J. Billing And Subscriber Communications:

1. A grantee must give the City and subscribers thirty (30) days' advance written notice of any changes in rates, programming services, or channel alignments.

2. Bills must be clear, concise, and understandable. Bills must clearly delineate all activity during the billing period, including optional charges, rebates, and credits. In case of a billing dispute, the grantee must respond to a written complaint from a subscriber within thirty (30) days. (Ord. 2003-7, 4-7-2003)

K. Refunds And Credits: (Rep. by Ord. 2019-02, 1-7-2019)

L. Local Office/Drop Box: (Rep. by Ord. 2019-02, 1-7-2019)

M. Additional Customer Service Requirements: The City may adopt additional or modified customer service requirements to address subscriber concerns or complaints. (Ord. 2003-7, 4-7-2003)

4-6-21: COMMUNITY SERVICES:

A. PEG Access Facilities: Franchises will establish obligations to provide PEG access facilities to meet the community's needs and interests.

B. Service To Public Or Educational Institutions: Franchises will establish obligations for the provision of free or reduced cost services to identified public or educational institutions. (Ord. 2003-7, 4-7-2003)

4-6-22: ACCESS TO RECORDS:

A. The city may, upon reasonable notice and during normal business hours, and subject to the privacy provisions of 47 USC section 521 et seq., inspect any records maintained by a grantee which relate to its franchise or system operations, including, specifically, grantee's gross revenue records. Grantees must make copies of documents upon the city's reasonable request but may identify and label any such documents as "confidential trade secret" in accordance with section 4-6-16 of this chapter.

B. Grantees must prepare and furnish to the city such reports with respect to the operations, affairs, transactions or property, as they relate to this franchise or cable services, as the city may reasonably request. (Ord. 2003-7, 4-7-2003)

4-6-23: PROTECTION OF INDIVIDUAL RIGHTS:

A. Discriminatory Practices Prohibited: No grantee may deny cable service or otherwise discriminate against citizens or businesses on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference, or disability.

B. Subscriber Privacy:

1. Grantees must comply with the subscriber privacy related requirements of 47 USC section 551.

2. No signals of a class IV channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written authorization of the subscriber.

3. No lists of the names and addresses of subscribers or any lists that identify the viewing habits of subscribers may be sold or otherwise made available to any party other than to the grantee and its employees for internal business use, and also to the subscriber subject of that information, without the express written authorization of the subscriber.

4. Written subscriber authorization is limited to a period not to exceed one year. Subscriber authorization may be renewed at the option of the subscriber. No penalty may be invoked for a subscriber's failure to provide or renew such authorization. The authorization must be revocable at any time by the subscriber without penalty of any kind whatsoever.

5. Written authorization from a subscriber is not required for conducting systemwide or individually addressed electronic sweeps to verify system integrity or monitor for billing purposes. This information must be kept confidential subject to the provisions set forth in subsection B2 of this section. (Ord. 2003-7, 4-7-2003)

4-6-24: UNAUTHORIZED CONNECTIONS AND MODIFICATIONS:

A. It is unlawful for any person, without the express consent of the grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a grantee's system.

B. It is unlawful for any person to wilfully interfere with, tamper with, remove, obstruct, or damage, or assist thereto, any part or segment of a system for any purpose. (Ord. 2003-7, 4-7-2003)

C. Any person found guilty of violating this section may be fined as established in section 3-1-3 of this code for each and every subsequent offense. (Ord. 2003-7, 4-7-2003; amd. Ord. 2017-01, 1-3-2017)

4-6-25: ADMINISTRATION AND ENFORCEMENT OF FRANCHISE:

A. Administrative Authority:

1. The city administrator will have continuing regulatory authority over cable systems, cable services, and franchise compliance; provided, however, the city council shall have the sole authority to hold hearings and take final enforcement action as provided in subsections B3 and B4 of this section or revoke a franchise as provided in subsection C of this section.

2. The city administrator may delegate this regulatory supervision by giving written notice of such delegation to affected grantees. Grantees must cooperate with any such delegates of the city administrator.

B. Violations:

1. Notice Of Violation: In order to take enforcement action pursuant to this chapter or a franchise, the city must provide the grantee with written notice of the violation or other occurrence giving rise to the city's action.

2. Remedy Of Violation: The grantee shall have thirty (30) days, subsequent to receipt of the notice, to cure the violation or occurrence giving rise to the city's action. Alternatively, the grantee may, within seven (7) days of receipt of notice from the city, notify the city in writing that there is a dispute as to whether a violation or failure has in fact occurred. Such written notice by the grantee to the city shall specify with particularity the matters disputed by grantee.

3. Hearing: In the event a grantee does not timely cure, to the city's satisfaction, the violation or other occurrence giving rise to the city's action, or timely disputes whether a violation has occurred, the city will schedule a public hearing affording grantee due process. The city will endeavor to schedule the hearing for a date within ninety (90) days of the initial violation notice. Notice of the hearing must be provided to the grantee.

4. Determinations: At the completion of the hearing, the city will issue written findings of fact and its final determination. A grantee may not initiate legal proceedings until the city's final determination is issued. In the event the city determines that no violation has taken place, the city will rescind the notice of violation in writing.

C. Revocation Of Franchise:

1. In addition to all other rights and remedies that the city possesses pursuant to law, equity and the terms of the franchise agreement, the city may revoke or terminate the franchise and all rights and privileges pertaining thereto, in accordance with subsection B of this section if the city determines that:

a. The grantee has violated any material requirement or provision of this chapter or a franchise and has failed to timely cure; or

b. The grantee has attempted to evade any of the material provisions of this chapter or a franchise; or

c. The grantee has practiced fraud or deceit upon the city or a subscriber; or

d. The grantee has filed for bankruptcy.

2. During any revocation proceeding and any appeal period, the franchise will remain in full force and effect unless the term thereof sooner expires. (Ord. 2003-7, 4-7-2003)

CHAPTER 7

GARBAGE AND REFUSE COLLECTORS

SECTION:

4-7-1: Definitions

4-7-2: Garbage And Refuse Collectors Regulations

4-7-1: DEFINITIONS:

COLLECTOR: A person licensed by the city to collect, transport and dispose of garbage and refuse. The term shall include the collector's duly authorized and acting employees and agents.

GARBAGE: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and from the handling, storage and sale of produce, but does not include recyclable materials.

GARBAGE AND REFUSE COLLECTION: The taking up and collecting of all garbage and refuse accumulated at all dwelling residences and places of business and other institutions in the city and the transportation of such garbage and refuse to a sanitary landfill or other place of disposal approved by the city and provided by the collector at the sole expense of the collector.

WASTE: Garbage, refuse, or rubbish but shall not include reusable or recyclable industrial waste products, or other recyclable materials.

WASTE CONTAINER: A container of galvanized iron, plastic or noncorrodible material with a close fitting cover, rodent and flyproof, nonabsorbent, and leakproof, of the type commonly sold as a garbage can, of suitable gauge and construction to ensure durability and with suitable handles on can and lid and of a capacity not less than ten (10) gallons but does not include recycling containers. (Ord. 2017-04, 6-5-2017)

4-7-2: GARBAGE AND REFUSE COLLECTORS REGULATIONS:

A. License Required: No person, except as provided herein shall remove "waste" materials as defined in section 4-7-1 of this chapter from any premises in the city, or transport such waste materials upon the streets and public highways within the city, or in any other manner dispose of waste materials originating in the city, or contract for a permit or to be employed or engaged in any such removal, transportation or disposal without first having obtained a license therefor from the city.

B. Licensing Regulations, Terms And Conditions:

1. Application And Issuance: Any person or party desiring a license must make application therefor to the city clerk.

2. Fee: The annual license fee shall be as prescribed in section 3-1-3 of this code.

3. Renewal And Expiration: All licenses issued hereunder shall expire on December 31 following its issuance.

4. Qualifications: Every applicant for a license hereunder shall furnish the city with evidence that the applicant has sufficient equipment and personnel to render service to existing and prospective customers and in accordance with the requirements of this section; and further, that the applicant has the capability to assure completion of applicant's routes on schedule under any circumstances.

5. Equipment:

a. Vehicle Backup Warning Device: All licensed vehicles shall be equipped with a backup device which complies with Minnesota statutes and Minnesota highway regulations applicable thereto.

b. Other Requirements: All licensed vehicles transporting waste materials shall be otherwise equipped as provided in subsection D of this section.

6. Sanitation And Appearance: All licensed vehicles and equipment shall be kept clean and in good repair and appearance and shall be maintained in a sanitary condition so as to prevent insect breeding therein or other nuisance characteristics.

7. Inspection: No license shall be issued or renewed until the vehicle to be licensed has passed a state approved inspection and received a commercial vehicle (CV) inspection certificate from either the state or a CV dealer authorized by the state of Minnesota to conduct CV inspections. The inspection certificate for the proposed licensed vehicle must be dated within twelve (12) months from the date of the application or renewal.

8. Liability Insurance: Every licensee shall carry bodily injury liability insurance in an amount not less than five hundred thousand dollars ($500,000.00) per person and not less than two million dollars ($2,000,000.00) per occurrence and not less than five hundred thousand dollars ($500,000.00) of property damage insurance on all licensed vehicles. Every licensee shall also carry workers' compensation insurance for its employees. The licensee shall provide the city with evidence that said insurance is in full force and effect and shall provide the city with ten (10) days' written notice of cancellation of said insurance.

9. Cancellation Or Revocation: The parties hereunder may, if mutually agreeable, cancel such license. However, the city may revoke the license of any collector as provided for in this code.

10. Identification: The collector shall display its company name and telephone number in a conspicuous place on both sides of each licensed vehicle in letters and numerals no less than four inches (4") in height.

11. Denial Of License: The city reserves the right to deny any applicant a license or a renewal thereof if any reasonable doubt exists as to the applicant's compliance with the provisions of this section or any other provisions of this code.

C. Collection Practices:

1. Frequency Of Service:

a. The collector shall provide residential garbage and refuse collection service only on Thursdays, except when:

(1) A legal holiday falls on a day Monday through Thursday, in which case the collector shall provide garbage and refuse collection on the next day; or

(2) Extreme inclement weather prevents the collector from collecting the garbage and refuse on the scheduled Thursday, in which case the collector shall provide garbage and refuse collection on the next day that weather permits such collection.

b. The collector shall provide commercial garbage and refuse collection on any weekday, Monday through Friday.

2. Service Complaints:

a. Contact Person: Each collector shall have a telephone number listed in a telephone directory of general circulation in the city or on a webpage accessible to the public, and shall provide telephone answering service between the hours of nine o'clock (9:00) A.M. and four thirty o'clock (4:30) P.M. Monday through Friday, except on legal holidays.

b. Service Failure Makeup: If the customer was not serviced because the waste containers were not accessible on the scheduled collection day, the collection shall be made as soon as possible by agreement between the collector and customer.

3. Collector To Replace Damaged Waste Containers: The collector shall replace at its expense, containers which are damaged by the collector's carelessness or the carelessness of collector's employees or agents.

4. Collector To Replace Covers And Cans To Their Original Locations: The collector shall, after servicing the customer, replace all covers and cans to their original location.

5. Use Of Private Driveway Prohibited: The collector is prohibited from driving the collection vehicle upon the private driveways of residents unless written approval is first obtained from such resident.

D. Transportation Of Waste:

1. Waste To Be Covered: No collector shall transport waste upon the public streets and highways or other public property of the city unless such waste being transported is entirely and securely covered.

2. "Packer Type" Refuse Body For Transporting Garbage: No collector shall transport garbage upon the public streets and highways or other public property of the city except in a leakproof, compaction type body commonly referred to as a "packer type" refuse body, as approved by the city manager or the manager's designee.

3. Cleanup Of Spilled Waste: The collector shall immediately clean up in a neat and workmanlike manner any waste that the collector may have caused to spill upon the streets and highways or other public or private property in the city.

E. Prohibited Dumping: No collector shall dump, place or otherwise dispose of waste in violation of the laws of the United States, this state and its counties, or the laws of any political subdivision thereof.

F. Storage Of Vehicles In The City: Collectors shall not store or keep their waste removal vehicles in the city when not in use (after such vehicle is free from all waste) unless located within a properly zoned district and the site complies with all zoning and city codes.

G. Noise Regulations: Each collector operating in the city shall comply with all other provisions of this code, including the noise level and hour regulations in section 5-5-1 of this code.

H. Hours Of Operation: No licensed collector may operate between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M.

I. Transfer Of License: Unless otherwise provided in this code, no license shall be transferable without the authorization of the council.

J. Renewal Of License: License renewals are issued in the same manner and subject to the same conditions as original licenses.

K. Revocation; Denial; Suspension: A license issued or to be issued by the city may be denied, suspended or revoked by the council for any of the following causes:

1. Fraud, misrepresentation, or incorrect statement contained in the application for license, or made in carrying on the licensed activity.

2. Conviction of any crime, or misdemeanor, pertaining to license held or applied for, subject to the provisions of Minnesota statutes, chapter 364, as amended.

3. Conducting such licensed activity in such manner as to constitute a breach of the peace, or a menace to the health, safety and welfare of the public, or a disturbance of the peace or comfort of the residents of the city, upon recommendation of the city health authorities or other appropriate city official.

4. Expiration or cancellation of any required bond or insurance, or failure to notify the city within a reasonable time of changes in the terms of the insurance or the carriers.

5. Actions unauthorized or beyond the scope of the license granted.

6. Failure to continuously comply with all conditions required as precedent to the approval of the license.

L. Hearing: No license may be suspended or revoked, or an administrative fine levied on the licensee, until after a hearing is granted to the licensee. Such hearing to be held before the council upon due notice to the licensee stating the time and place of such hearing, together with a statement of the violation alleged to be the cause for the revocation or suspension of the license.

M. Temporary Suspensions: The council may temporarily suspend a license pending a hearing on revocation or suspension when in its judgment the public health, safety and welfare is endangered by the continuance of the licensed activity.

N. Violation, Criminal Penalty: Any person violating any provision of this section shall be guilty of a petty misdemeanor. Each day of continued violation, after citation or complaint, shall be deemed a separate offense and chargeable and punishable accordingly. Violators shall also be subject to administrative fines levied under title 1, chapter 6 of this code. (Ord. 2017-04, 6-5-2017)

CHAPTER 8

OUTDOOR SPECIAL EVENT PERMITS

SECTION:

4-8-1: Definitions

4-8-2: Permit Requirements

4-8-3: Site Plan Requirements

4-8-4: Special Conditions

4-8-5: Outdoor Liquor Sales

4-8-6: Temporary Outdoor Seasonal Sales

4-8-7: Outdoor Musical Performance

4-8-8: Standards

4-8-9: Exemptions

4-8-1: DEFINITIONS:
The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

MUSICAL PERFORMANCE:	An outdoor music event is held at an event venue or other commercial property specifically to provide live or recorded amplified music entertainment to a large assembly of persons. Found in Section 5-5-3 in the Albertville City Code.
OUTDOOR LIQUOR SALES:	The outdoor sale of intoxicating liquor by a holder of a retail on-sale liquor license. Found in Section 4-1-13 in the Albertville City Code.
OUTDOOR SEASONAL SALES:	The temporary sale of agricultural produce, Christmas trees, flowers and the like sold and conducted by the operators of a legitimate, established business within the appropriate zoning district in the city. Found in Section 1000.22 in the Albertville City Code.
SPECIAL EVENT:	Any outdoor event operating in the City open to the general public including block parties, musical performances, seasonal sales, and liquor sales. (Ord. 2019-08, 9-16-2019)

4-8-2: PERMIT REQUIREMENTS:

A. Permit Required: No person, except those with an outdoor special event permit, shall directly or indirectly host a special event within the City.

B. Application for Permit: The application for the permit provided for in this section shall be made to the city clerk by filing the application and paying the license fee and by completing an application form as provided by the city clerk. In addition to such information as the city clerk may require, the application shall include:

1. The name of the applicant and property owner along with signatures for agreement to terms and conditions of the special event permit application.

2. The permanent home address and full local address of the applicant and property owner, and the permanent and local telephone numbers of the applicant and property owner.

3. Proof of an Insurance policy for the special event.

4. If intoxicating liquor is sold on site, the applicant shall follow all regulations set forth in Title 4, Chapter 1, Alcoholic Beverages in the Albertville City Code.

5. If commercial food services are provided, the applicant shall comply with the MFU (Mobile Food Unit) requirements of Section 4-4-6 F in the Albertville City Code.

6. If signs for special event are needed, plans shall be submitted for city staff review and shall follow all regulations set forth in Albertville City Code Title 10, Chapter 7, Sign Regulations.

7. A form of public notice such as a flyer or door tag shall be distributed to residents affected by the special event after approval of permit.

8. If outdoor seasonal sales are included in the special event, a brief description of what is being sold and the location of the merchant on site shall be provided. Outdoor seasonal sales are regulated in section 4-8-5 of the Albertville City Code and shall be followed.

9. A brief written description of:

a. The nature or purpose of the special event, what the event will be titled, estimated amount of people attending and the applicant's method of operation.

b. The location of the special event including address or PID number.

c. Noise mitigation techniques on site. Noise control is regulated in the Albertville City Code under Title 5, Chapter 5, in which the applicant shall follow with the exception of Musical Performances under Section 5-5-3.

d. The location of where on site intoxicating liquor will be sold and consumed and at what time of the day.

e. Dates for when the set up and take down of materials will occur.

f. Fire protection and prevention methods including locations of portable fire extinguishers, site and floor plans of the event showing seating arrangement, and fire exit plans.

g. The location and type of fencing used for the special event.

h. Food services provided for the event and vendor names.

i. Lighting plans including location of light sources.

j. Medical facilities provided on site.

k. Event parking areas, street closures, traffic circulation routes and pedestrian paths provided for the special event for review by city staff.

l. Crowd control and security methods including number of security guards during event and location of security.

m. Solid waste disposal including portable toilets, trash containers, or other facilities and location.

n. The number, size and location of tents on site.

o. The precise timing of the event including calendar dates and time of day the special event begins and ends.

p. What is being sold at the event and the location of the merchant on site shall be provided.

q. Signs advertising the special event.

r. Neighborhood notification including door tags or flyers alerting residents that will be affected of the event. (Ord. 2019-08, 9-16-2019)

4-8-3: SITE PLAN REQUIREMENTS:

A. A site plan or survey of property is required for all special events occurring in the City of Albertville. Aspects of the special event that shall be included in the site plan include the location of:

1. Buildings.
2. Parking areas and circulation routes.
3. Tents.
4. Displays.
5. Stages.
6. Security.
7. Medical facilities.
8. Fire hydrants, fire key boxes, and fire department connections.
9. Lighting.
10. Food/drink areas.
11. Fencing.
12. Solid waste disposal areas.

B. Site plans shall be submitted to Albertville city staff for review and approval prior to issuance of the special event permit. (Ord. 2019-08, 9-16-2019)

4-8-4: SPECIAL CONDITIONS:

A. If the special event contains intoxicating liquor, the consumption shall be confined within a fenced area.

B. Public events shall provide security for crowd control.

C. Public events shall provide available toilet facilities on site.

D. Insurance is required for all applicants seeking an outdoor special event permit. (Ord. 2019-08, 9-16-2019)

4-8-5: OUTDOOR LIQUOR SALES:

If the special event involves the selling of intoxicating liquor, the applicant shall follow all regulations set forth in Title 4, Chapter 1, Alcoholic Beverages in the Albertville City Code. (Ord. 2019-08, 9-16-2019)

4-8-6: TEMPORARY OUTDOOR SEASONAL SALES:

If the special event involves seasonal sales, the applicant shall follow all regulations set forth in Title 10, Chapter 1, Section 1000.22, Temporary Outdoor Seasonal Sales in the Albertville City Code. (Ord. 2019-08, 9-16-2019)

4-8-7: OUTDOOR MUSICAL PERFORMANCE:

If the special event involves musical performances of any kind, the applicant shall follow all regulations for noise control set forth in Section 5-5-3 of the Albertville City Code. (Ord. 2019-08, 9-16-2019)

4-8-8: STANDARDS:

A. Applicants shall not host an outdoor special event for more than seven (7) consecutive days at one time. If an event lasts for longer than seven (7) consecutive days, the applicant shall file for another permit.

B. Applicants shall not possess more than four (4) permits per one calendar year.

C. Outdoor special events shall only occur in the timeframe from April 1 through November 1 of each calendar year.

D. Outdoor special events shall not operate beyond the time of twelve o'clock (12:00) midnight. (Ord. 2019-08, 9-16-2019)

4-8-9: EXEMPTIONS:

Exempt events from the requirements and standards in this chapter may be city sponsored events such as: Friendly City Days, Farmer's Market, Explore Your Parks Nights, Open Streets and other events as deemed exempt by the City Council. (Ord. 2019-08, 9-16-2019)

CHAPTER 9

MOBILE FOOD UNITS

SECTION:

4-9-1: Purpose

4-9-2: Definitions

4-9-3: Licensing Requirements

4-9-4: Prohibited Hours

4-9-5: Prohibited Practices Generally

4-9-6: Additional Restrictions For Mobile Food Units

4-9-7: Noisy Conditions Prohibited

4-9-8: Duties Of Police

4-9-9: Revocation Of License

4-9-10: Misdemeanor Violation; Penalty

4-9-1: PURPOSE:
The purpose of this chapter is to establish regulations and licensing requirements for any person, desiring to operate Mobile Food Units ("MFUs") within the City of Albertville. The purpose of the regulations is to protect the public health, manage potential conflicting uses of the public right of way, and minimize unfair competition with fixed-site prepared food vendors in the community. (Ord. 2021-04, 3-15-2021)

4-9-2: DEFINITIONS:
For purpose of this chapter, the following definitions shall apply unless the context clearly indicates a different meaning:

FIXED SITE FOOD VENDOR: an establishment engaged in the business of selling prepared, ready-to-eat foods to the public at a fixed location and from a permanent building, such as a restaurant, café, or similar establishment.

MOBILE FOOD UNIT ("MFU"): A food and beverage service establishment that is a vehicle mounted unit, either:

A. Motorized or trailered, a self-contained unit, in which food is stored, cooked, and prepared for direct sale to the consumer, operating no more than twenty one (21) days annually at any one place, or operating more than twenty one (21) days annually at any one.

B. Operated in conjunction with a permanent business licensed under Minnesota Statute chapter 157 or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

C. Ice Cream Truck: A motor vehicle utilized as the point of retail sales of prewrapped or prepackaged ice cream, frozen yogurt, frozen custard, flavored frozen water or similar frozen dessert products.

(Ord. 2021-04, 3-15-2021)

4-9-3: LICENSING REQUIREMENTS:
A. License Required; Separate Licenses: It shall be unlawful for any person to operation of an MFU in the City without first obtaining a license in compliance with the provisions of this section.

B. Application for License: An application for a license shall be filed with the City Clerk. The application shall be made on a form supplied by the City and shall contain information, including but not limited to, the following.

1. The applicant's legal name, other names applicant uses or is known by.

2. The permanent home address (place of business if the applicant is not a person) and telephone numbers of the applicant.

3. the owner or lessee of the property upon which the MFU will be located must either sign the application or sign a written statement authorizing the applicant to operate the MFU on the owner's or lessee's property.

4. A description of the nature of the MFU, the goods to be sold, and the applicant's method of operation.

5. A copy of the MFU's State of Minnesota Health Department License authorizing sales. MFUs must adhere to state regulations for food trucks as provided in food code chapter 4626.1860 mobile food establishments; seasonal temporary food stands; seasonal permanent food stands.

6. The length of time during which the applicant intends to do business in the City, with the approximate dates.

7. A statement as to whether or not the applicant or the person managing the business has been convicted of any crime, misdemeanor or violation of any municipal ordinance involving activities licensed under this chapter, the nature of the offense and the punishment or penalty assessed therefor.

8. A description of the vehicle, together with the license number or other means of identification. Vehicle size shall not exceed ten (10) feet in height, nor twenty-five (25) feet in length.

9. Ice cream truck vendors shall be required to undergo a criminal background check prior to operating in the City.

C. License Fee: The license fee for operating an MFU established in section3-1-3 of this code, shall be paid at the time of application for a license.

D. No license shall be required for any MFU that:

1. Has contracted solely with the owner or occupant of a property for a private event on such property where food is not sold to guests or any other member of the public and for which there is no fee for admission.

2. Is authorized by the City to operate on City Park property during the Friendly City Days festival.

E. License Types:

1. There shall be two types of MFU licenses, as follows: shall be issued for one of two time periods:

a. A temporary license allows an MFU operations in the City for up to three (3) consecutive days; or

b. An annual license allows an operations in the City for up to 21 days during the calendar year. All annual licenses expire on December 31 following the date of issue.

F. All licenses shall be issued for use on one property only.

G. The City may place conditions on such license that it deems necessary and appropriate.

H. The City may refuse to issue a license to any person who has previously had an MFU license revoked by the City.

(Ord. 2017-01, 1-3-2017; amd. Ord. 2021-04, 3-15-2021)

4-9-4: PROHIBITED HOURS:
MFU operations are limited to the business, industrial, and public/institutional zoning districts, and are not permitted between the hours of 10 p.m.

and 8 a.m. Ice cream truck vendors may operate in all zoning districts but must adhere to the described hours of operation.

(Ord. 2021-04, 3-15-2021)

4-9-5: PROHIBITED PRACTICES GENERALLY:

A. Unlawful Purpose: It is unlawful for any MFU to engage in solicitation for any unlawful purpose.

B. License Unobtained: It is unlawful for any person to operate an MFU without first obtaining a license therefor as provided in this chapter.

C. Fraudulent or Deceptive Practices: It is unlawful for any MFU to engage in any fraudulent or deceptive practices.

D. Violations of Conditions: It is unlawful to violate any conditions placed upon an MFU license by the City.

(Ord. 2004-14; amd. Ord. 2021-04, 3-15-2021)

4-9-6: ADDITIONAL RESTRICTIONS FOR MOBILE FOOD UNITS:

A. Operation on Public Property: It shall be unlawful for any MFU to sell or operate on any public lands or public right of way within the City except as specifically authorized in the City Code.

B. Operation on Private Property: No MFU shall operate or be operated within the city from a stationary location on private property at any location where such sales would not be permitted by the zoning ordinance or without first obtaining the written consent of the property owner or occupant. The written consent must accompany the license application.

C. Signs: No signage shall violate the provisions of the City Code relating to size and number of business signs.

D. MFU sites shall be kept in a neat and orderly manner, and shall adhere to the following site requirements:

1. Trash and/or recycling collection and cleanup must be provided.

2. MFUs must provide independent power supply which is screened from view. Generators are permitted.

3. MFUs cannot obstruct the movement of pedestrians or vehicles or pose a hazard to public safety.

4. MFUs shall be located on an asphalt or concrete surface.

5. MFUs may not be located within two hundred feet (200') of existing restaurants or coffee shops, as measured from the MFU to the food service building. However, MFUs may be permitted within two hundred feet (200') of existing food establishments within the same shopping center, with permission from the shopping center's owner.

6. MFUs must close during adverse weather conditions when shelter is not provided.

7. MFU shall comply with all applicable Minnesota State Fire Code Sections and as regulated by the Albertville Fire Chief.

8. MFU must comply with the National Fire Protection Association's Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations.

9. Propane tanks must be attached or secured to the MFU and must be adequately ventilated.

10. MFU must have at least one (1) 2A:20BC fire extinguisher in the MFU. If deep frying occurs in the MFU, then the MFU must have a least one (1) Class K Fire extinguisher in the unit. Each fire extinguisher must display an inspection tag dated within the past 12 month.

E. MFUs must be located on private property, and the applicant must provide written consent from the property owner. However, MFUs may be located in a public park with approval from the City, and ice cream trucks are allowed to operate within the public right of way in residential districts.

F. No MFU license shall be transferred to any other person or party other than to whom it was issued.

(Ord. 2004-14; amd. Ord. 2021-04, 3-15-2021)

4-9-7: NOISY CONDITION S PROHIBITED:

No MFU license holder or any person in his behalf, shall shout, blow a horn, ring a bell or use any sound devices upon any of the streets, alleys, parks, or other public places or upon any private premises in the City.

(Ord. 2004-14; amd. Ord. 2021-04, 3-15-2021)

4-9-8: DUTIES OF POLICE:

It shall be the duty of any police officer of the City to require any person seen operating MFU operations, and who is not known to such officer to be duly licensed, to produce his license and to enforce the provisions of this chapter against any person when in violation of this chapter.

(Ord. 2004-14; amd. Ord. 2021-04, 3-15-2021)

4-9-9: REVOCATION OF LICENSE:

A. The Council may revoke any MFU license upon a showing of cause at a public hearing after the licensee has received timely notice thereof and has an opportunity to be heard regarding the potential revocation of his or her license and the opportunity to present witnesses on his or her behalf. Notice may be given in the same manner as that prescribed for service of process under the Minnesota rules of civil procedure for the district courts or by certified or registered U.S. Mail.

B. Emergency: If, in the discretion of the City Administrator, imminent harm to the health or safety of the public may occur because of the actions of a licensee under this Chapter, the City may immediately suspend the permit and provide notice under provisions of this section.

C. An MFU license may be revoked for any of the following reasons:

1. The MFU site is found to be in noncompliance with any requirements of this chapter.

2. The MFU has violated the conditions of the MFU license or has violated any provision of the City Code.

3. The MFU's operations are determined to be unsanitary.

4. The MFU's licenses issued by the State of Minnesota has expired or is revoked.

5. The owner or lessee of the property has revoked permission for the MFU to operate on its property.

6. Other good cause as may be established by the City.

(Ord. 2021-04, 3-15-2021)

4-9-10: MISDEMEANOR VIOLATION; PENALTY:
Every person violates a provision of this chapter when such person performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provision hereof, or upon conviction thereof, shall be punished as a misdemeanor as provided in section 1-4-1 of this code.

(Ord. 2017-01, 1-3-2017; amd. Ord. 2021-04, 3-15-2021)

CHAPTER 10

TETRAHYDROCANNABINOL PRODUCTS

SECTION:

4-10-1: Purpose And Intent

4-10-2: Definitions

4-10-3: License

4-10-4: Eligibility And Basis For Denial Of License

4-10-5: Prohibited Acts

4-10-6: Additional Requirements

4-10-7: Responsibility

4-10-8: Violations And Penalty

4-10-9: License Fee

4-10-1: PURPOSE AND INTENT:
The purpose of this chapter is to regulate the sale of any legalized adult-use product that contains tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minnesota Statutes section 151.72, also known as "THC Products" for the following reasons:

A. By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minnesota Statutes section 151.72 to allow the sale of certain products containing tetrahydrocannabinol, also known as "THC".

B. The new law does not prohibit municipalities from adopting and enforcing local ordinances to regulate THC product businesses including, but not limited to, local zoning and land use requirements and business license requirements.

C. The National Academies of Science, Engineering, and Medicine note that the growing acceptance, accessibility, and use of THC products, including for medical purposes, have raised important public health concerns, while the lack of aggregated knowledge of cannabis-related health effects has led to uncertainty about the impact of its use.

D. The City recognizes the danger THC use presents to the health, welfare, and safety of youth in Albertville.

E. The Minnesota Legislature recognized the danger of THC product use among the public at large by setting potency and serving size requirements.

F. The Minnesota Legislature recognized the danger of THC product use among youth by prohibiting the sale of any product containing THC to those under the age of twenty one (21), requiring that edible THC products be packaged without appeal to children and in child-resistant packaging or containers.

G. State law authorizes the Board of Pharmacy to adopt product and testing standards in part to curb the illegal sale and distribution of THC products and ensure the safety and compliance of commercially available THC products in the state of Minnesota.

H. The City has the opportunity to be proactive and make decisions that will mitigate this threat and reduce exposure of young people to the products or to the marketing of these products and improve compliance among THC product retailers with laws prohibiting the sale or marketing of THC products to youth.

I. A local regulatory system for THC product retailers is appropriate to ensure that retailers comply with THC product laws and business standards of the City of Albertville to protect the health, safety, and welfare of our youth and most vulnerable residents.

J. A requirement for a THC product retailer license will not unduly burden legitimate business activities of retailers who sell or distribute THC products to adults but will allow the City of Albertville to regulate the operation of lawful businesses to discourage violations of state and local THC product-related laws.

K. In making these findings and enacting this ordinance, it is the intent of the Albertville City Council to ensure responsible THC product retailing, allowing legal sale and access without promoting increases in use, and to discourage violations of THC product-related laws, especially those which prohibit or discourage the marketing, sale, or distribution of THC products to youth under twenty one (21) years of age. (Ord. 2023-12, 8-7-2023)

4-10-2: DEFINITIONS:
Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

EXCLUSIVE LIQUOR STORE:	An establishment that meets the definition of exclusive liquor store in Minnesota Statutes section 340A.101, subd. 10.
LICENSED PRODUCT OR THC PRODUCT:	Any product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minnesota Statutes section 151.72, as may be amended from time to time. Licensed product does not include medical cannabis as defined in Minnesota Statutes section 152.22, Subd. 6, as may be amended from time to time, excluding "medical cannabis" as defined by Minnesota Statutes section 152.22, Subd. 6, as the same may be amended from time to time.
MOVEABLE PLACE OF BUSINESS:	Any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

SALE:	Any transfer of goods for money, trade, barter, or other consideration.
SCHOOL:	Any public or private elementary, vocational, or secondary school, or a public or private college or university.
SELF-SERVICE MERCHANDISING:	Open displays of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the licensed product between the customer and the licensee or employee.
STATE-LICENSED DAY CARE CENTER:	A nonresidential program as defined in Minnesota Statutes section 245A.02, Subd. 10 for which a license is required under Minnesota Statutes section 245A.03.
THC:	Is the acronym for tetrahydrocannabinol, the principal psychoactive constituent of cannabis.
VENDING MACHINE:	Any mechanical, electric, or electronic, or other type of device that dispenses licensed products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the licensed product. (Ord. 2023-12, 8-7-2023)

4-10-3: LICENSE:

A. License Required: No person shall sell or offer to sell any licensed product within the City without first having obtained a license to do so from the City.

B. Application: An application for a license to sell licensed products shall be made on a form provided by the City. The application shall contain the full name and date of birth of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. A business applicant, at the time of application, shall furnish the City with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the City Administrator in writing of any change in ownership in the business. If the City Administrator determines that an application is incomplete, the City Administrator shall return the application to the applicant with notice of the information necessary to make the application complete. Upon receipt of a completed application, the City Administrator shall forward the application to the Director of Wright County Sheriff's Office to conduct a criminal background check. Upon completion of the background check, the City Administrator shall forward the application to the City Council for action at its next regularly scheduled City Council meeting.

C. Action: The City Council may either approve or deny the application for a license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council approves the license, the City Administrator shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal. Appeals of any decision must be made within thirty (30) days of the denial. If a license application is denied, the earliest an applicant may reapply is twelve (12) months from the date the license is denied.

D. Term: All licenses issued under this article shall expire on December 31 of each year.

E. Revocation Or Suspension:

1. Any license issued under this chapter may be revoked or suspended as provided in this chapter.

2. If a license is mistakenly issued or renewed to a person or a business, it shall be revoked upon the discovery that the person or business was ineligible for the license under this chapter and the City shall provide the person or business with a notice of revocation, along with information on the right to appeal.

3. Any change in the ownership or control of a licensed business shall be deemed equivalent to a transfer of the license, and any such license shall be revoked thirty (30) days after any such change in ownership or control unless the licensee has notified the Council of the change in ownership by submitting a new license application for the new owners, and the City Council has approved the transfer of the license by appropriate action. Any time an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the City. The City may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the City may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The City Council may revoke any license issued upon its determination that a change of ownership of a licensee has resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the City Council on notice to the licensee.

F. Transfers: All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person or business to whom the license was issued. The transfer of any license to another location, business, or person is prohibited.

G. Display: All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

H. Renewals: The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license.

I. Issuance As Privilege And Not A Right: The issuance of a license issued under this article is a privilege and does not entitle the license holder to automatic renewal of the license. (Ord. 2023-12, 8-7-2023)

4-10-4: ELIGIBILITY AND BASIS FOR DENIAL OF LICENSE:

A. Eligibility:

1. Moveable Place Of Business: No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.

2. Eligible Businesses: Licenses shall only be issued to the following entities, provided after October 1, 2023, such entities are registered with the Commissioner as required by Minnesota Statutes section 151.72, Subd. 5b:

a. Vendors selling primarily tobacco or tobacco related products.

b. The license holder of an exclusive liquor store as defined in Minnesota Statutes section 340A.101, subd. 10, provided the THC products are sold within the same premises licensed for liquor sales.

c. The license holder of an on-sale liquor establishment, provided the THC products are sold within the same premises licensed for liquor sales.

d. Vendors selling primarily CBD products or THC products.

e. Vendors selling primarily vitamins, health-related supplements, and skin care products.

3. Proximity To Schools: No license shall be issued for a premises within one thousand feet (1,000') of any school. The distance is to be measured from the closest point of the property the school is located on to the closest side of the structure within which the licensed product is be sold.

4. Proximity To Day Care Facilities: No license shall be issued for a premises within five hundred feet (500') of a State licensed day care center.

5. Delinquent Taxes And Charges: No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid. In the event an action has been commenced pursuant to the provisions of Minnesota Statutes Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the City Council may, on application by the licensee, waive strict compliance with this paragraph. No waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due.

6. Zoning Compliance: No license shall be granted or renewed for operation on any premise where the sale of THC Products would be in violation of the City's Zoning Ordinance.

7. No entity shall be issued a license to sell THC products on municipally-owned property.

B. Grounds For Denial: Grounds for denying the issuance or renewal of a license under this chapter include, but are not limited to, the following:

1. The applicant is under the age of twenty one (21) years.

2. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation from holding a license.

3. The applicant has been convicted within the past five years for any violation of a Federal, State, or local law, other ordinance, provision, or other regulation relating to the licensed products.

4. The applicant has had a license to sell licensed products suspended or revoked during the twelve (12) months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell licensed products, whether in the City or in another jurisdiction, that has had a license to sell licensed products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.

5. The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this chapter.

6. The applicant is the spouse of a person ineligible for a license pursuant to the provision of subsections B2 or B3 of the Albertville City Code or who, in the judgment of the City Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.

7. The applicant fails to provide any information required on the application or provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.

8. The application is for a location at which the issue of a license is prohibited under this chapter. (Ord. 2023-12, 8-7-2023)

4-10-5: PROHIBITED ACTS:

A. In General:

1. No person shall sell or offer to sell any licensed product:

a. By means of any type of vending machine.

b. By means of self-service merchandising.

c. By any other means, to any other person, or in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.

d. That is not in the original packaging with labeling in compliance with labeling requirements of Minnesota Statutes section 151.72, subd. 5, as may be amended from time to time.

e. At an establishment that also possesses an on-sale liquor license.

2. No person shall sell or offer for sale a product containing THC that does not meet all the requirements of Minnesota Statutes section 151.72, subd. 3., as may be amended from time to time.

B. Legal Age: No person shall sell any licensed product to any person under the age of twenty one (21).

1. Age Verification: Licensees shall verify by means of government issued photographic identification that the purchaser is at least twenty one (21) years of age.

2. Signage: Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the City, must be posted in a manner that is clearly visible to anyone who is making a purchase or is considering making a purchase.

C. Samples Prohibited: No person shall distribute samples of any licensed product free of charge or at a nominal cost.

D. Use Of False Identification: It shall be a violation of this chapter for any person to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of person.

E. Unlawful Purchases: It shall be unlawful for any person who is under the age of twenty one (21) years to purchase any licensed product. (Ord. 2023-12, 8-7-2023)

4-10-6: ADDITIONAL REQUIREMENTS:

A. Storage: All licensed products shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

B. Training: If training classes are available for employees within a twenty five (25) mile radius relating to compliance with sales to customers, all employees of a licensed premises shall attend training within two (2) weeks of beginning employment at the licensee's establishment or the earliest available class if no training classes are offered within said two (2) week period. (Ord. 2023-12, 8-7-2023)

4-10-7: RESPONSIBILITY:

All licensees are responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of licensed products on the licensed

premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee. Nothing in this section shall be construed as prohibiting the City from also subjecting the employee to any civil penalties that the City deems to be appropriate under this chapter, state or federal law, or other applicable law or regulation. (Ord. 2023-12, 8-7-2023)

4-10-8: VIOLATIONS AND PENALTY:

A. Criminal Penalty: A violation of this chapter shall be a misdemeanor. Nothing in this chapter prohibits the City from seeking prosecution as a misdemeanor for an alleged violation of this chapter.

B. Administrative Penalty: If a licensee or an employee of a licensee is found to have violated this article, the licensee shall be charged an administrative penalty as follows:

1. First Violation: The City Council may impose a civil fine of five hundred dollars ($500.00) and/or suspend the license for not less than one (1) day.

2. Second Violation Within Thirty Six (36) Months: The City Council may impose a civil fine of one thousand ($1,000.00) and/or suspend the license for not less than three (3) consecutive days.

3. Third Violation Within Thirty Six (36) Months: The City Council may impose a civil fine of one thousand dollars ($1,000.00) and/or revoke the license for at least one year.

C. Administrative Penalty Procedures: No penalty shall take effect until the licensee has received notice (served personally or by mail) of the alleged violation and of the opportunity for a hearing before the City Council, and such notice must be in writing and must provide that a right to a hearing before the City Council must be requested within ten (10) business days of receipt of the notice or such right shall terminate. All fines shall be paid within thirty (30) days of imposition via mailing or personal service of such written notice by the City.

D. Revocation: In addition to any other penalty imposed under this chapter, any license issued under this section may be revoked by the City Council for a violation of any provision of this chapter if the licensee has been given a reasonable notice and an opportunity to be heard.

E. Appeal: Any appeal of the decision of the City Council to impose a civil penalty must be made within thirty (30) days of the decision of the City Council. (Ord. 2023-12, 8-7-2023)

4-10-9: LICENSE FEE:

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this article may be amended from time to time by the City Council. The annual fee for a THC license shall be two hundred fifty dollars ($250.00) per calendar year, payable at the time of submission of an application for a license. License fees for licenses issued for part of a year shall be prorated as a percentage of the year the license will be in effect. No portion of such license fees shall be refundable. (Ord. 2023-12, 8-7-2023)

TITLE 5

HEALTH AND SANITATION

CHAPTER 1

NUISANCES

SECTION:

5-1-1: Purpose

5-1-2: Public Nuisance Defined

5-1-3: Public Nuisances Affecting Health

5-1-4: Public Nuisances Affecting Morals And Decency

5-1-5: Public Nuisances Affecting Peace And Safety

5-1-6: Storage Of Personalty

5-1-7: Hazardous Buildings And Excavations

5-1-8: Alcoholic Beverages In Public

5-1-9: Responsibility For Violations

5-1-10: Enforcement Officials

5-1-11: Abatement Procedures

5-1-12: Abatement Costs

5-1-13: Violation; Penalties; Remedies

5-1-1: PURPOSE:

The purpose of this chapter is to protect the general health, safety and welfare of the citizens of the city by prohibiting the occurrence and maintenance of public nuisances and eliminating junk and blight within the city. This chapter allows for the abatement of public nuisances and provides penalties for and remedies against those causing or maintaining a public nuisance. (2005 Code)

5-1-2: PUBLIC NUISANCE DEFINED:

A "public nuisance" is a thing, act or use of property which:

A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable numbers of the public; or

B. Interferes with, obstructs, or renders dangerous for passage, any public highway or right of way, or waters used by the public; or

C. Any other act or omission declared by law or this chapter to be a public nuisance. (2005 Code)

5-1-3: PUBLIC NUISANCES AFFECTING HEALTH:
The following are hereby declared to be nuisances affecting health:

A. Garbage, Refuse And Manure:

1. Exposed accumulation of decayed or unwholesome food or vegetable matter.

2. Accumulations of manure, refuse, or other debris.

3. Garbage cans or other refuse containers which are not rodent free or flytight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors and from which waste is not removed at least once a week.

4. Depositing garbage, rubbish, litter or refuse on any public property, including streets, sidewalks, and parks, except in public receptacles and in such a manner that the garbage, rubbish or litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place.

B. Animals At Large: All animals running at large[1] .

C. Carcasses Of Animals: Carcasses of animals not buried or destroyed within twenty four (24) hours after death.

D. Stagnant Water: All ponds or pools of stagnant water.

E. Water Pollution: The pollution of any public well or cistern, stream or lake, canal or other body of water by sewage, industrial waste, or any other substances.

F. Unlawful Sewage Disposal[2] : The discharge, disposal, accumulation, or collection of sewage or industrial waste without proper permit or approval.

G. Noxious Weeds And Rank Vegetation: All "noxious weeds", as defined in Minnesota rules 1505.0730, and other rank growths of vegetation, upon public or private property. (2005 Code)

H. Open Burning: Burning in violation of chapter 4 of this title. The emission of smoke by any use shall be in compliance with and regulated by the Minnesota pollution control standards, MPCA chapter 7009.

I. Air Pollution: Dense smoke, noxious fumes, gas and soot, cinders, dust, fly ash, or other particulated matter in unreasonable quantities. The emission of any particulated matter by any use shall be in compliance with and regulated by the Minnesota pollution control standards, MPCA chapter 7009, as amended. (Ord. 2009-003, 2-2-2009)

J. Diseased Persons: All public exposure of persons having a contagious disease.

K. Offensive Businesses: Any offensive trade or business as defined by either ordinance or state statute which is not operating under local license, or such trade or business whose operation constitutes a clear and present danger to the health of the public in general. (2005 Code)

L. Odors: Any offensive odors upon public or private property. The emission of odor by any use shall be in compliance with and regulated by the Minnesota pollution control standards, MPCA chapter 7009, as amended.

M. Noise: Noise in violation of chapter 5 of this title. The emission of noise by any use shall be in compliance with and regulated by the Minnesota pollution control standards, MPCA chapter 7030, as amended.

N. Radiation Emission: All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota pollution control agency. (Ord. 2009-003, 2-2-2009)

Notes

1 1. See also section 6-2-4 of this code.

2 2. See title 9, chapters 3 and 4 of this code.

5-1-4: PUBLIC NUISANCES AFFECTING MORALS AND DECENCY:
The following are hereby declared to be nuisances affecting public morals and decency:

A. Gambling:

1. Any gambling device not authorized by state law and not properly permitted by the appropriate jurisdiction, including, but not limited to, slot machines and punchboards.

2. Betting or bookmaking not allowed by state law, and all apparatus used in such operations.

B. Disorderly Houses: All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdyhouses.

C. Premises Manufacturing, Dispensing Or Selling Liquor Or Drugs Illegally: All places where intoxicating liquor or illegal drugs are manufactured, dispensed or disposed of in violation of law or where, in violation of law, persons are permitted for the purpose of drinking intoxicating liquor or ingesting or otherwise using illegal drugs, or where intoxicating liquor or illegal drugs are kept for sale or other disposition in violation of law, and all liquor, illegal drugs, and other property used for maintaining such places.

D. Vehicles Used For Illegal Purposes: Any vehicle used for the illegal transportation of intoxicating liquor and/or illegal drugs, or for prostitution and/or other immoral or illegal purpose. (2005 Code)

5-1-5: PUBLIC NUISANCES AFFECTING PEACE AND SAFETY:
The following are declared to be nuisances affecting public peace and safety:

A. Water, Snow And Ice Deposits On Public Ways:

1. Depositing, or causing to be deposited, any snow or ice on or against any fire hydrant or on any sidewalk or roadway.

2. The allowing of rainwater, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.

3. Wastewater cast upon or permitted to flow upon streets or other public property.

B. Trees, Vegetation And Billboards Obstructing Traffic And Public Ways:

1. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection.

2. Any tree, shrub, bush, or other vegetation located on private property which obstructs use or travel on any public right of way.

C. Wires, Tree Limbs And Signs Over Public Ways:

1. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.

2. All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance.

D. Barbed Wire And Electric Fences Near Public Ways: Any electric or barbed wire fencing strung lower than six feet (6') in height and within three feet (3') of a public sidewalk or way, except when used in conjunction with agricultural uses in an area zoned for such use.

E. Obstructing Public Ways Generally; Excavations: Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by city ordinances or other applicable law.

F. Merchandise, Building Materials And Machinery In Public Ways: Placing or storing on any street, sidewalk, alley or public right of way any boxes, goods, wares, merchandise, building materials, machinery, business or trade article except for the purpose of immediately transferring the same to some other proper place.

G. Use Of Property To Create Crowds In Public Ways: Any use of property abutting a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk, and which activity is conducted without a permit, license or other permission duly granted by the city.

H. Dangerous Antennas: Radio aerials or television antennas erected or maintained in a dangerous manner.

I. Dangerous, Unguarded Machinery: All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.

J. Junk Accumulations: Accumulations in the open of broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials (but excluding building materials awaiting use and stored for a reasonable period of time for an improvement presently in progress on the same premises), discarded or unused machinery, household appliances, automobile bodies, trash, debris, rubbish or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or items accumulated in a manner creating fire, health, or safety hazards.

K. Abandoned Containers: The keeping of any used refrigerator, icebox or freezer in a location or manner accessible to children which is not in service and which has the door latch intact.

L. Uncovered Wells, Holes, Excavations: Any well, hole, or similar excavation which is left open or uncovered or in such other condition as to constitute a danger to any child or other person coming onto the premises where it is located.

M. Obstructing Waterways, Drains, Gutters: Obstruction of the free flow of water in a natural waterway, a public street drain, storm sewer, gutter, or ditch with trash or other materials.

N. Drainage Obstructions: Digging excavations, placing culverts, placing dams, or doing any act which may alter or affect the drainage of public property, streets, alleys or sidewalks, or affect flows of the public storm sewer and drainage ditch system, without authorization by the city.

O. Throwing Dangerous Objects On Public Ways: The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance. (2005 Code)

P. Garbage, Refuse And Earth Deposits:

1. The deposition of garbage, refuse, lawn clippings, or yard waste on a public right of way or on adjacent private property.

2. Throwing, placing, or depositing dirt, rocks, sand, leaves, trash, lawn clippings, weeds, grass, or other materials in the streets, sidewalks, ditches, wetlands, wetland buffer areas, stormwater ponds, stormwater pond buffer areas, drainage easements, etc., or other public ways and the gutters thereof.

3. Permitting dirt, rocks or mud from construction or landscaping activities to be carried or deposited onto nearby streets, storm sewers, sidewalks, ditches or other public ways and the gutters thereof. (Ord. 2016-07, 8-1-2016)

Q. Electrical Emission: All activities which create electrical emissions shall comply with the minimum requirements of the federal communications commission.

R. Other Injurious Conditions: All other conditions or things which are likely to cause injury to the person or property of anyone. (Ord. 2009-003, 2-2-2009)

5-1-6: STORAGE OF PERSONALTY:

A. Definition Of Personalty; Nuisance Declared: Unsheltered storage of unused, stripped, junked, and other automobiles, recreational vehicles, motorcycles, watercraft or any other motor vehicle, not in good and safe operating condition and bearing a current state of Minnesota license or registration for that type of vehicle, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, all of which is hereinafter described as "said personalty", for any period of thirty (30) days or more within any given year (except in licensed junkyards) within the corporate limits of the city is hereby declared to be a nuisance and dangerous to the public safety.

B. Unsheltered Storage: For purposes of this chapter, "unsheltered storage" means said personalty which is not stored in a permitted building complying with the then existing and controlling city ordinances. The period of one year, for purposes of considering whether or not a continuing violation exists, commences upon the date of notice of the violation. In the event that any violation is corrected but a same or similar act occurs within the one year time period set forth herein, it shall be considered a continuation of the original violation, and each day that said violation exists may be considered a separate violation as well as a continuation of the original violation.

C. Abatement By Owners: The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of the city upon which such prohibited storage or any other violation of this chapter is made, and also the owner, owners, and/or lessees of said personalty involved in such storage or any other material constituting a violation of this chapter, all of whom are hereinafter collectively referred to as "owners", shall jointly and severally abate said nuisance by the prompt removal of said personalty or materials into completely enclosed buildings authorized to be used for such purposes, or to a licensed junkyard or waste facility, or remove it to a location outside the corporate limits of the city.

D. Abatement By City: Whenever said owners fail to abate such nuisances, the city shall remove the said personalty or materials to a location of its selection. Abatement of such nuisance by the city shall be in accordance with section 5-1-11 of this chapter. Costs incurred by the city during said

abatement, including the cost of storage or disposal, shall be recoverable from the said owners, jointly and severally, in accordance with section 5-1-12 of this chapter or in a suit at law.

E. Disposal Of Property After City Abatement; Disposition Of Funds: When said personalty or materials have been removed and placed in storage by the city, as provided for herein, said personalty shall be sold by the city after the lapse of such time as is provided for by law. If the proceeds of such sales are insufficient to pay the costs of abatement and storage, said owners shall be liable to the city for the balance of the costs. If the proceeds are in excess of the costs, including storage, the balance shall be paid to said owners or deposited in the city treasury for their city. (2005 Code)

5-1-7: HAZARDOUS BUILDINGS [1] AND EXCAVATIONS:
The hazardous building law, Minnesota statutes sections 463.15 through 463.261, is adopted by reference. Any hazardous building or dangerous excavation may be abated in accordance with the provisions of that law. (2005 Code)

Notes

1 1. See also title 10, chapter 6 and section 10-4-12 of this code for additional provisions regarding dangerous buildings.

5-1-8: ALCOHOLIC BEVERAGES IN PUBLIC [1] :
A. Consumption:

1. No person shall consume intoxicating liquor or nonintoxicating malt liquor on any public sidewalk or street, or in a vehicle upon a public street. (2005 Code)

2. No person shall consume intoxicating liquor or nonintoxicating malt liquor in any public parking lot without city authorization. This subsection shall not apply to parking lots within city parks. (Ord. 2006-03, 2-21-2006)

B. Possession: No person shall have in possession intoxicating liquor or nonintoxicating malt liquor in an open container on any public sidewalk or street or in a vehicle upon a public street. (2005 Code)

Notes

1 2. See also subsections 4-1-14A and B of this code.

5-1-9: RESPONSIBILITY FOR VIOLATIONS:
The owner and tenant of any premises on which a violation of this chapter occurs shall make every reasonable effort to see that the violation ceases. Violations of this chapter shall be deemed the act of both the person committing the act and the person in possession, control, custody, or having charge of the premises who allows or permits the violation to take place. Violations of this chapter shall also be deemed the act of a nonresident landlord, provided he or she has received written notice from the city of the violation and has failed to make every reasonable effort to see that the violation ceases. (2005 Code)

5-1-10: ENFORCEMENT OFFICIALS:
The city council shall have the duty of enforcing the provisions of this chapter. In addition, any law enforcement agency with whom the city council has contracted for law enforcement services shall have the authority to enforce the provisions of this chapter. The city council may, by resolution, delegate to other officers or agencies power to enforce particular provisions of this chapter, including the power to inspect private premises, and the officers charged with enforcement of this chapter shall take all reasonable precautions to prevent the commission and maintenance of public nuisances. (2005 Code)

5-1-11: ABATEMENT PROCEDURES:
A. Generally:

1. Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated or abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding thirty (30) days, within which the nuisance is to be abated.

2. If the notice is not complied with within the time specified, the enforcing officer shall cause personal service of a notice of hearing upon the owner or occupant of the property at least seven (7) days prior to a scheduled hearing by the city council. In the event that personal service cannot be made, mailed and posted notice may be used; provided, that it is posted and mailed at least seven (7) days prior to the date of the hearing.

3. Thereafter, the council may, after notice to the owner or occupant and an opportunity to be heard, provide for abating the nuisance by the city.

4. The city council may by resolution adopt a notice of abatement, which shall set forth the nuisance to be abated and shall indicate a date and time on which the city will enter onto the property and abate the nuisance. The notice shall also notify the property owner that the costs of abatement will be billed to the property owner, and if not paid, will be assessed against the property. The notice of abatement shall be served upon the owner and/or occupant in person or by certified or registered mail at least seven (7) days prior to the proposed date for the city to abate the nuisance. If the premises is unoccupied or the owner and/or occupant cannot be served, notice may be posted upon the premises at least seven (7) days prior to the proposed abatement.

B. Emergency Abatement: When the officer charged with enforcement determines that a nuisance constitutes a serious and eminent danger to the public safety or health, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The officer shall immediately thereafter notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail. (2005 Code)

5-1-12: ABATEMENT COSTS:
A. Liability For Costs: The owner of the premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city for the abatement, including legal and administrative costs.

B. Rendition Of Bills; Payment Required: As soon as the work has been completed and the costs determined, the clerk or other official designated by the council shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the office of the clerk.

C. Assessment Of Costs: If the nuisance is a public health or safety hazard on private property or the accumulation of snow and ice on public

sidewalks, the clerk may, on or before November 15, next following abatement of the nuisance, list the total unpaid charges (including all applicable legal and administrative costs) along with all other such charges as well as other charges for current services to be assessed under Minnesota statutes section 429.101, against each separate lot or parcel to which the charges are attributable. The council may then spread the charges against such property under that statute and other pertinent statutes for certification to the county auditor and collection along with current and following year taxes, or in annual installments, not exceeding ten (10), as the council may determine in each case. (2005 Code)

5-1-13: VIOLATION; PENALTIES; REMEDIES:

A. Misdemeanor Violation; Penalty: Any person violating any provision of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be punished pursuant to section 1-4-1 of this code, plus the costs of prosecution. Each day a nuisance continues to exist is deemed a separate punishable offense under this chapter.

B. Civil Remedies: The city may, in its discretion, seek any civil remedies available to it as well, including, but not limited to, injunctive relief or abatement.

C. Administrative Fine: The city may enforce this chapter via an administrative fine imposed pursuant to city ordinance authorizing the imposition of such code offense fines as established in section 3-1-3 of this code at table section 1-6-2.

D. Cumulative Remedies: Each right or remedy accruing to the city under this chapter or at law is separate and distinct and may, in the city's discretion, be exercised independently or simultaneously with any other right or remedy. (Ord. 2017-01, 1-3-2017)

CHAPTER 2

RECYCLING REQUIREMENTS FOR MULTI-FAMILY DWELLINGS

SECTION:

5-2-1: Purpose

5-2-2: Definitions

5-2-3: Collection Services Required

5-2-4: Recycling Information Provided

5-2-5: Container Requirements

5-2-6: Transportation And Disposal

5-2-7: Annual Report

5-2-8: Misdemeanor Violation; Penalty

5-2-1: PURPOSE:

The purpose of this chapter is to require recycling services for multi-family dwellings. (Ord. 1992-2, 2-18-1992)

5-2-2: DEFINITIONS:

The following terms, as used in this chapter, have the meanings as indicated:

ALUMINUM RECYCLABLES: Disposable containers fabricated primarily of aluminum, commonly used for soda, beer, or other beverages.

CAN RECYCLABLES: All disposable containers primarily of metal or tin.

COLLECTION: The aggregation of recyclable materials from the place at which it is generated and includes all activities up to the time when the waste is delivered to the facility designated by the owner of the multiple-family dwelling.

CORRUGATED CARDBOARD: Cardboard material with double wall construction and corrugated separation between walls.

DESIGNATED RECYCLABLES: The following recyclable materials: aluminum recyclables, can recyclables, glass recyclables, paper recyclables, plastic bottle recyclables, and corrugated cardboard.

GLASS RECYCLABLES: Unbroken jars, bottles, and containers which are primarily used for packing and bottling of various matter.

MULTIPLE-FAMILY DWELLINGS: A building or portion thereof containing eight (8) or more dwelling units.

PAPER RECYCLABLES: Newsprint, office paper, and other uncoated paper products. The term does not include paper products with a waxy, polished, or glossy surface, such as glossy magazines, and does not include paper products that are bound together with glue, such as telephone books.

PLASTIC BOTTLE RECYCLABLES: All disposable bottles fabricated from plastic. (Ord. 1992-2, 2-18-1992)

5-2-3: COLLECTION SERVICES REQUIRED:

The owner of a multiple-family dwelling shall make available to the occupants of all dwelling units on the premises services for the collection of designated recyclables. The collection services shall be available on the premises and shall be provided on a regularly scheduled basis. The owner and owner's employees may provide the collection services personally, or the owner may contract with a licensed collector. (Ord. 1992-2, 2-18-1992)

5-2-4: RECYCLING INFORMATION PROVIDED:

The owner of a multiple-family dwelling shall provide information to the occupants of each dwelling unit which notifies the occupants of the availability of collection services, describes the procedures required to prepare the designated recyclables for collection, and identifies the dates and times of collection. (Ord. 1992-2, 2-18-1992)

5-2-5: CONTAINER REQUIREMENTS:

The owner of a multiple-family dwelling shall provide containers for the collection of designated recyclables and shall maintain the containers in a clean and sanitary condition. The containers shall be sufficient in number and size to meet the demands for recycling services created by the occupants. Containers shall be placed in a location on the premises which permits access for collection purposes but which does not obstruct pedestrian or vehicular traffic and must comply with the city zoning ordinance [1]. (Ord. 1992-2, 2-18-1992)

Notes

1 1. See appendix A, subsection 1000.14B1 of this code.

5-2-6: TRANSPORTATION AND DISPOSAL:
Upon collection by the owner, owner's employees, or licensed collector, that person shall deliver recyclables to a recyclable material processing center, an end market for sale or reuse, or to an intermediate collection center for later delivery to a processing center or end market. (Ord. 1992-2, 2-18-1992)

5-2-7: ANNUAL REPORT:
Each owner of a multiple-family dwelling shall file a report with the city: a) within sixty (60) days of acquiring an ownership interest therein; and b) on an annual basis no sooner than January 1 and no later than January 31 of each calendar year. The report shall contain, at a minimum, the following information:

A. Name of owner.

B. Address of multiple-family dwelling.

C. Number of dwelling units.

D. Description of collection services, including date and time of collection, and who provides the services.

E. Description of methods used to inform occupants of availability of services.

F. Name and address of licensed collector that provides the service. (Ord. 1992-2, 2-18-1992)

5-2-8: MISDEMEANOR VIOLATION; PENALTY:
Violation of this chapter is a misdemeanor punishable by a fine pursuant to section1-4-1 of this code. (Ord. 2017-01, 1-3-2017)

CHAPTER 3

GRASS AND WEEDS

SECTION:

5-3-1: Height Restrictions And Exemptions

5-3-2: Duty Of Owner, Lessee Or Occupant To Cut And Remove

5-3-3: Failure To Remove; Removal By City; Costs

5-3-4: Petty Misdemeanor Violation; Penalty

5-3-1: HEIGHT RESTRICTIONS AND EXEMPTIONS:
A. It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied or unoccupied lot or land or any part thereof in the city to permit or maintain on any such lot or property or along the sidewalk, street or alley adjacent to the same, any growth of plants, grass, brush, or other weeds or vegetation which is horticulturally out of place to a height greater than twelve inches (12"). This requirement does not apply to the following: (Ord. 2000-10, 9-5-2000)

1. A wetland, wetland buffer or floodplain designated on the official zoning map;

2. A drainage pond or ditch which stores or conveys stormwater;

3. Maintained and weeded gardens, trees and shrub plantings;

4. Property being used for agricultural purposes consistent with the city zoning ordinance; and (Ord. 2000-10, 9-5-2000; amd. 2005 Code)

5. An area designated by the city council as a "natural preserve".

B. The determination of what constitutes a "natural preserve" shall be made by the city council in its sole discretion. The city council shall consider the following factors in making its determination:

1. Whether there are compelling reasons to preserve the property in its natural state;

2. The zoning district of the city within which the property is located; and

3. Whether any public safety or health problems may result if the area is designated a "natural preserve". (Ord. 2000-10, 9-5-2000)

5-3-2: DUTY OF OWNER, LESSEE OR OCCUPANT TO CUT AND REMOVE:
It shall be the duty of any owner, lessee, or occupant of any lot or land to cut and remove or cause to be cut and removed all such weeds, grass, brush or other poisonous or harmful vegetation as often as may be necessary to comply with the provisions of section 5-3-1 of this chapter; provided, however, that cutting and removing such weeds, grass and vegetation at least once in every three (3) weeks between May 15 and September 15 shall be deemed to be in compliance with this section. (Ord. 2000-10, 9-5-2000)

5-3-3: FAILURE TO REMOVE; REMOVAL BY CITY; COSTS:
A. Notice To Remove: If the provisions of this chapter are not complied with, the city may serve written notice upon the owner, lessee, or occupant or any person having control of such lot or land, to comply with the provisions of this section.

1. Occupied Lots/Land: One written notice shall serve as notice to the person upon whom it was served for the entire growing season.

2. Unoccupied Lots/Land: For any vacant lot/land the city may serve written notice by leaving a door hanger in a visible place on the lot/land. One door hanger shall serve as notice to the owner, lessee, or occupant or any person having control of such lot or land for the entire growing season.

B. Removal By City:

1. Occupied Lots/Land: If the person upon whom the notice is served fails to remove the weeds, grass, brush or other vegetation within five (5) days from the date such notice is postmarked or delivered, then the city may cause the weeds, grass, brush and other vegetation of such lot or land to be cut and removed. Thereafter during the same growing season, the city may cause such weeds, grass, brush and other vegetation upon such land that violates section 5-3-1 of this chapter to be cut and removed without further written notice to the owner, lessee or occupant.

2. Unoccupied Lots/Land: If the person upon whom the notice is served fails to remove the weeds, grass, brush or other vegetation within two

(2) days from the date the door hanger is left, then the city shall cause the weeds, grass, brush and other vegetation of such lot or land to be cut and removed. Thereafter during the same growing season, the city may cause such weeds, grass, brush and other vegetation upon such land that violates section 5-3-1 of this chapter to be cut and removed without further written notice to the owner or lessee. (Ord. 2009-004, 2-17-2009)

C. Costs Assessed: The actual cost of cutting and the removal, plus such sums as determined by the city council to reimburse the city for its costs of inspection established in section 3-1-3 of this code, shall be certified by the city administrator and shall thereupon become a lien upon the lot or land on which such weeds, grass, brush, and other vegetation were located and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced in the same manner as real estate taxes; provided, however, the owner, lessee or occupant or any person having control of the lot or land may pay to the city, in full, the actual costs incurred for cutting and removal, plus the inspection fee, by September 15 of the same calendar year in which the cutting and removal occurred in order to avoid having such costs levied upon the lot or land. (Ord. 2017-01, 1-3-2017)

5-3-4: PETTY MISDEMEANOR VIOLATION; PENALTY:
Any person violating any provision of this chapter shall be guilty of a petty misdemeanor and, upon conviction thereof, shall be punished by a fine pursuant to section 3-1-3 of this code. (Ord. 2017-01, 1-3-2017)

CHAPTER 4

OPEN BURNING

SECTION:

5-4-1: State Regulations Adopted

5-4-2: Permit Requirements

5-4-3: Prohibited Burning Under Certain Circumstances

5-4-4: Nuisance Declared; Abatement

5-4-5: Violations; Penalties

5-4-1: STATE REGULATIONS ADOPTED:
Air pollution control regulation 8, adopted by the Minnesota pollution control agency and thereafter amended, is adopted by reference pursuant to Minnesota statutes section 471.62. The city administrator shall mark one copy of the regulation "official copy" and keep it on file in his/her office for use and examination by the public. (Ord., 5-4-1987)

5-4-2: PERMIT REQUIREMENTS:
Upon determining that all necessary precautions have been taken to protect life and property, the fire chief may issue an open burning permit for any purpose for which burning under permit is authorized by state regulation. The permit shall be subject to the restrictions imposed by said regulation and such other restrictions as may be imposed by the fire chief or his/her designated representative to protect the public health, safety and welfare in the particular case. Any permit application shall be denied in cases provided the by regulation. The permit is subject to revocation as the regulation provides. An open burning permit issued under this chapter or APC regulation 8 does not excuse the permittee from the consequences, damages or injuries that may result therefrom. (Ord., 5-4-1987)

5-4-3: PROHIBITED BURNING UNDER CERTAIN CIRCUMSTANCES:
No open burning shall take place during an air pollution alert, warning, or emergency declared by the Minnesota pollution control agency. No such burning shall take place during a high wind or when a traffic hazard might be created thereby in any nearby street; nor shall any burning take place without a responsible attendant. (Ord., 5-4-1987)

5-4-4: NUISANCE DECLARED; ABATEMENT:
Except as open burning is otherwise authorized by this chapter, open burning without a permit is hereby declared to be a public nuisance[1]. The fire chief or his/her designated representative may summarily abate such nuisance without notice to any party. In the event that it becomes necessary to abate such nuisance, the fire chief or his/her designated representative may, at his/her sole discretion assess a fee which shall be set from time to time by the city council by resolution against the owner of the property or the person responsible for the burning where the public nuisance is created. If not paid within thirty (30) days of the date of the assessment, the said assessment may be declared an assessment against the property involved. (Ord., 5-4-1987)

Notes

1 1. See also subsection 5-1-3H of this title.

5-4-5: VIOLATIONS; PENALTIES:
A. Any person, firm or corporation violating section 5-4-2 of this chapter, in addition to the provisions of section 5-4-4 of this chapter, is guilty of a petty misdemeanor and, upon conviction thereof, shall be punished pursuant to section 3-1-3 of this code, plus the costs of prosecution.

B. Any person, firm or corporation violating section 5-4-3 of this chapter, in addition to the provisions of section 5-4-4 of this chapter, is guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalty provided in section 3-1-3 of this code, plus the costs of prosecution in either case. (Ord., 5-4-1987; amd. 2005 Code; Ord. 2017-01, 1-3-2017; Ord. 2019-13, 12-16-2019)

CHAPTER 5

NOISE CONTROL

SECTION:

5-5-1: Public Nuisance Noise Prohibited

5-5-2: Specific Noises Prohibited

5-5-3: Exception; Outdoor Musical Performances

5-5-4: Responsibility Of Owner And Occupant

5-5-5: Petty Misdemeanor Violation

5-5-1: PUBLIC NUISANCE NOISE PROHIBITED:
Except in conjunction with a civic celebration recognized by the city council, or by special permit issued by the city council, no person shall make, continue, or cause to be made any loud, unnecessary, or unusual noise, or any noise which unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of others, precludes their enjoyment of property, or affects their property value. This general prohibition is not limited by the specific restrictions of section 5-5-2 of this chapter. (Ord. 2004-05, 6-7-2004)

5-5-2: SPECIFIC NOISES PROHIBITED:
The following acts are declared to be nuisance noises in violation of this chapter, but this listing shall not be deemed to be exclusive: (Ord. 1997-4, 4-15-1997)

A. Excessive Motor Vehicle Noise:

1. The practice of causing excessive motor vehicle noise. No person shall cause excessive motor vehicle noise upon any public right of way located in the city. Any person found in violation of this subsection A1 shall be guilty of a misdemeanor punishable pursuant to section 3-1-3 of this code. (Ord. 2017-01, 1-3-2017)

2. The operation of a motor vehicle in the city in violation of the motor vehicle noise limits of the Minnesota pollution control agency.

3. The play, use, or operation of any radio, tape or disk player, musical instrument, phonograph, paging system or other device for the production or reproduction of sound in such a manner as to be plainly audible at a distance of fifty feet (50') from the motor vehicle shall be prima facie evidence of a violation of this subsection.

4. Due to the flat terrain of Albertville and the loud and unpleasant sound of engine retarder brakes, the use of such brakes within the city, except in emergency situations in which the primary braking system has failed or is inadequate. (2005 Code)

B. Horns And Signaling Devices:

1. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street, public place, or private property within the city except as a present danger warning.

2. The creation by means of any such horn or signaling device of any unreasonably loud or harsh sound.

3. The sounding of any such device for an unnecessary and unreasonably loud or harsh sound.

4. The use of any signaling device except one operated by hand or electricity.

5. The use of any horn, whistle, or other device operated by engine exhaust.

6. The use of any signaling device when traffic is held up for any reason.

C. Vehicle Exhausts: The discharge into the open air of the exhaust of any vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom and which complies with all applicable state laws and regulations.

D. Defect In Vehicle Or Load: The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such a manner as to create loud and unnecessary grating, grinding, rattling, or other noise which shall disturb the comfort or repose of any persons in the vicinity. (Ord. 1997-4, 4-15-1997)

E. Radios And Amplifiers Generally: The using, operating or permitting to be played any radio, musical instrument, phonograph, jukebox, amplifier, or other machine or device for the producing, reproducing, or amplifying of sound in such manner as to disturb the peace, quiet, or comfort of persons residing or working or peaceably gathered in its vicinity. The operation of said machine or device between the hours of five o'clock (5:00) P.M. and seven o'clock (7:00) A.M. shall be prima facie evidence of a violation of this section if done in such manner as to be plainly audible:

1. Within any building or structure used for residential purposes; or

2. At a distance of fifty feet (50') from the building, structure or vehicle in which it is located. (Ord. 2004-05, 6-7-2004)

F. Loudspeakers And Amplifiers For Advertising: The using, operating or permitting to be played of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

G. Sound Trucks For Advertising: The use of sound trucks or any other vehicle equipped with sound amplifying devices for the purposes of advertising any program, project, or meeting of any public agency, private business, religious organization, civic group, political party, or charitable organization.

H. Whistles Or Sirens: The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or any siren whatsoever except to give notice of the time to begin or stop work, or as a warning of fire or danger, or by public emergency vehicles.

I. Yelling And Shouting: Yelling, shouting, hooting, whistling, or singing at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any persons in the vicinity.

J. Peddlers And Vendors: The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood[1]. (Ord. 1997-4, 4-15-1997)

K. Animals[2]: The keeping of any animal that unreasonably disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise. For purposes of this subsection, "disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise" means any one of the following:

1. The animal noise occurs at a time between ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. and can be heard from a location outside the building and premises where the animal is being kept, and the animal has made such noises intermittently for more than three (3) minutes with one minute or less lapse of time between each animal noise during the three (3) minute period; or

2. The animal noise can be heard from a one block distance from the location of the building or premises where the animal is being kept, and the animal has made such noises intermittently for more than three (3) minutes with one minute or less lapse of time between each animal noise during the three (3) minute period; or

3. The animal noise can be heard from a location outside the building and premises where the animal is being kept, and the animal has made such noises intermittently for a period of at least five (5) minutes with one minute or less lapse of time between each animal noise during the five (5) minute period.

L. Loading Or Unloading Vehicles; Opening Boxes: The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers. (Ord. 1997-4, 4-15-1997; amd. 2005 Code)

M. Construction Or Repair Of Buildings: The erection (including excavating), demolition, alteration, or repair of any building between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. Monday through Saturday and all day Sunday except where single individuals or families work on single-family residences owned by them, for their own occupancy; provided, that the building official may, in cases of emergency, grant permission to repair at any time when he finds that such repair work will not affect the health and safety of the persons in the vicinity.

N. Equipment Use And Power Hammers: The operation between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. Monday through Saturday and all day Sunday of any pile driver, power shovel, pneumatic hammer, jackhammer, derrick, power or electric hoist, or other construction equipment, or other appliance, the use of which is attended by loud or unusual noise, except where single individuals or families are using such equipment to work on single-family residences owned by them, for their own occupancy. This subsection shall not apply to the use of lawn care equipment and snow removal equipment. The city administrator may cause exception to this subsection for good cause. (Ord. 2007-03, 4-2-2007)

O. Blowers: The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled, and such engine is equipped with a muffler device sufficient to deaden such noise. (Ord. 1997-4, 4-15-1997)

P. Residential Areas:

1. No person shall, between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M., congregate because of or participate in any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of persons residing in any residential area. Noise between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. of such volume as to be plainly audible at a distance of fifty feet (50') from the residential dwelling unit wherein such party or gathering is located shall be prima facie evidence of a violation of this section. (Ord. 1997-4, 4-15-1997; amd. Ord. 1997-10, 8-4-1997)

2. No person shall visit or remain within any residential dwelling unit wherein such party or gathering is taking place except the owner, persons residing in that unit, or persons who have gone there for the sole purpose of abating the disturbance.

Q. Schools, Courts, Churches And Hospitals: The creation of any excessive noise on any street or private property adjacent to any school, institution of learning, church, court, or hospital while the same is in use which unreasonably interferes with the use thereof, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street. (Ord. 1997-4, 4-15-1997)

Notes

1 1. See title 4, chapter 4 of this code for licensing provisions.

2 2. See also section 6-2-1, definition of "public nuisance animal or animals", and section 6-2-12 of this code.

5-5-3: EXCEPTION; OUTDOOR MUSICAL PERFORMANCES:
The provisions of section 5-5-1 and subsection 5-5-2E of this chapter do not apply to outdoor musical performances which have a permit approved and issued by the city council.

A. Major Live Outdoor Music Permit: A major live occasional outdoor music event is held at an event venue or other commercial property specifically to provide live or recorded amplified music entertainment to a large assembly of persons. The following criteria shall apply to issuance of a live major outdoor musical performance permit:

1. Any person, organization, and/or entity shall be limited to a maximum of two (2) major permits per year. No commercial property shall host more than three (3) major events in a calendar year. (Ord. 2013-008, 9-16-2013)

2. The permit applicant must pay a permit fee as established in section3-1-3 of this code and provide information and/or a plan(s) that demonstrates that the site event will comply with the performance standards of this code. (Ord. 2017-01, 1-3-2017)

3. The permit applicant must demonstrate that there will be adequate sanitary facilities for the event.

4. The permit applicant must demonstrate that there will be adequate security and fencing to control access to the event at the location of the outdoor musical performance.

5. The permit applicant must have sufficient off street parking. The music event shall not occupy required parking for the principal use of the site.

6. The major outdoor musical performance must not interfere with other commercial and governmental activities or with the quiet enjoyment of residential property.

7. The stage, performers, speakers and amplifiers are located three hundred feet (300') from any residence located in a residential zoning district.

8. The stage, speakers, and amplifiers are arranged in a design and manner that does not directly broadcast music at or toward a residence within three hundred feet (300') of the stage.

9. Major outdoor music events shall be allowed between May 15 and October 15 and the live outdoor musical performance shall only occur on the dates and during the hours designated by the city council.

10. Major outdoor music events shall not perform beyond twelve o'clock (12:00) midnight.

11. The volume of the outdoor musical performance must be reasonable. The permit holder shall comply with all requests of the sheriff's department to reduce volumes to mitigate nuisance complaints.

12. Failure to abide by these standards or the receipt of nuisance complaints may be grounds for denial of future major outdoor musical permits for the property.

B. Minor Live Outdoor Music Permit: A minor live outdoor music event may be acoustic or amplified, at an established commercial location as only part of a regular business service to its customers. The minor outdoor music event shall be limited in size, location and noise levels to ensure compatibility with adjoining land uses and neighborhoods. An annual permit may be issued by the city council for the operation of outdoor live music events in a manner that will not unreasonably disturb the peace, quiet, or comfort of adjoining residential neighborhoods. The following criteria shall apply to the issuance of a minor live outdoor music event permit:

1. The minor live outdoor music event permit may only be issued to commercial properties. (Ord. 2013-008, 9-16-2013)

2. The permit applicant must pay an annual permit fee as established in section3-1-3 of this code and provide information and/or a plan(s) that demonstrates that the site event will comply with the performance standards of this code. (Ord. 2017-01, 1-3-2017)

3. The permit shall be issued annually for a calendar year. Minor live outdoor music events shall only be allowed between the dates of May 15 to October 15.

4. The permit applicant shall provide a calendar that identifies the days in the week when minor live outdoor events may occur. The city council, in consideration of the permit, may place limits on the number of minor live outdoor music events. Events outside the approved calendar shall be prohibited.

5. Minor live outdoor music events shall comply with all the stage and performance setbacks of a major outdoor music event, as outlined in this section.

6. Minor live outdoor music events shall not perform between the hours of nine o'clock (9:00) P.M. and eleven o'clock (11:00) A.M. Sunday through Thursday, and ten o'clock (10:00) P.M. and eleven o'clock (11:00) A.M. Friday and Saturday.

7. The volume of the minor live outdoor music performances must be reasonable so as not to be audible at the shared property line with a residentially zoned property. The permit holder shall comply with all requests of the sheriff's department to mitigate nuisance complaints.

8. In review of a minor live outdoor music event permit, the city may impose additional conditions deemed necessary to mitigate nuisance complaints and protect adjoining properties. Such conditions may include, but not be limited to, the following:

a. Limit the days of the week for minor live outdoor music events.

b. Restrict the hours of the minor live music event beyond those stated in subsection B6 of this section.

c. Limit the size and location of minor live outdoor music events.

d. Limit amplification or type of instruments (i.e., prohibit percussion instruments or brass wind instruments).

9. Failure to abide by the standards and conditions of the minor live outdoor music event permit or the receipt of nuisance complaints may be grounds for denial or revocation of the minor live outdoor music event permit for a property. (Ord. 2013-008, 9-16-2013)

5-5-4: RESPONSIBILITY OF OWNER AND OCCUPANT:
The owner and tenant of any premises on which a violation of sections5-5-1 and 5-5-2 of this chapter occurs shall make every reasonable effort to see that the violation ceases. Violation of sections 5-5-1 and 5-5-2 of this chapter shall be deemed the act of the person committing the act and the person in possession, control, custody, or having charge of premises who allows or permits the violation to take place. Violation of sections 5-5-1 and 5-5-2 of this chapter shall also be deemed the act of the nonresident landlord, provided he has received written notice from the city of the violation and has failed to make every reasonable effort to see that the violation ceases. (Ord. 1997-4, 4-15-1997)

5-5-5: PETTY MISDEMEANOR VIOLATION:
Unless otherwise provided herein, violation of this chapter is subject to prosecution as a petty misdemeanor and subject to penalty as provided in section 1-4-1 of this code. (Ord. 1997-4, 4-15-1997; amd. 2005 Code)

CHAPTER 6

TREES, SHRUBS AND PLANTS

SECTION:

5-6-1: Definitions

5-6-2: Administration Of Provisions

5-6-3: Public Property; Permit Requirements

5-6-4: Public Property; Destruction Of Vegetation

5-6-5: Private Property

5-6-6: Interference With Enforcement Officials

5-6-7: Misdemeanor Violation; Penalty

5-6-1: DEFINITIONS:
BOULEVARD: The portion of the street right of way between the curb line and the property line.

PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC PROPERTY: All grounds owned by the city of Albertville.

STREET OR HIGHWAY: The entire width of every public way or right of way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular or pedestrian traffic. (Ord. 2004-15)

5-6-2: ADMINISTRATION OF PROVISIONS:
A. The city administrator shall administer the provision of this chapter.

B. The city administrator may, by administrative order, assign any part or all of the duties and responsibilities of this chapter to a designated department director or supervisor. The actions of the department director or supervisor under these circumstances shall have the same force and effect as if taken by the city administrator.

C. The city administrator may promulgate written supplemental rules, regulations, or orders to implement the purposes, intent, policies or procedures of this chapter.

D. Nothing contained in this chapter shall be construed to prohibit the city council, city administrator, or department director or supervisor from establishing rules and procedures that are additional to, but consistent with, the provisions of this chapter. (Ord. 2004-15)

5-6-3: PUBLIC PROPERTY; PERMIT REQUIREMENTS:
A. Permit Required: No person shall plant, spray, fertilize, prune, remove, cut above the ground, or otherwise disturb any tree, shrub or plant on

any street or public property without first filing an application, paying a permit fee established in section 3-1-3 of this code, and procuring a permit from the city; except, that lawn and weeds may be cut without such a permit. (Ord. 2017-01, 1-3-2017)

B. Contents Of Application: The application required herein shall state the number and kinds of vegetation affected; the location, grade, species, or variety of each type of vegetation; a description of the proposed work; and such other information as the city administrator shall find reasonably necessary to a fair determination of whether a permission slip should be issued.

C. Issuance Of Permit; Contents And Conditions: The city will issue the permission slip, provided the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permission slip granted shall contain a definite date of expiration, and the work shall be completed in the time allowed on the permission slip and in the manner as therein described. Any permission slip shall be void if its terms are violated.

D. Notice Of Completion Of Work: Notice of completion shall be given within five (5) days to the city for inspection. (Ord. 2004-15)

E. Failure To Comply: Whenever any tree shall be planted, removed or worked on in conflict with the provisions of this chapter, the city may take action to eliminate the violation, and the cost as established in section 3-1-3 of this code thereof shall be assessed to the owner as provided by law in the case of special assessments. (Ord. 2017-01, 1-3-2017)

5-6-4: PUBLIC PROPERTY; DESTRUCTION OF VEGETATION:

A. Prohibitions: Except as provided in section 5-6-3 of this chapter, no person shall intentionally:

1. Damage, cut, carve, transplant or remove any tree, plant or shrub;

2. Damage any tree or shrub by attaching any rope, wire, nails, posters or any other contrivance to the tree or shrub;

3. Allow any gaseous, liquid or solid substance which is harmful to trees or shrubs to come into contact with them;

4. Set fire or permit fire to burn where such fire or the heat thereof will injure any portion of any tree or shrub;

5. Dig in or otherwise disturb public grass areas; or

6. In any other way injure or impair the natural beauty or usefulness of any public property.

B. Restitution To City: Any person impairing, damaging, breaking, severely destroying or removing a tree, shrub or plant on public property shall make restitution to the city for the value of the tree, plant or shrub. (Ord. 2004-15)

5-6-5: PRIVATE PROPERTY:

A. Pruning Requirements:

1. Pruning Required; Height Above Public Ways: Any person owning or occupying real property bordering on any street shall prune trees, plants or shrubs on his/her property so that they do not obstruct the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be twelve feet (12') over sidewalks and fourteen feet (14') over streets. For purposes of this subsection, "obstruct" means creating a public health or safety concern.

2. Notice To Prune: Should any person owning real property bordering on any street fail to prune as provided by this chapter, the city may order such person to prune such tree, plant or shrub within thirty (30) days after written notice. A shorter period may be prescribed by the city in the event of the existence of any immediate hazard. (Ord. 2004-15)

3. Failure To Comply: When a person to whom an order is directed fails to comply within the specified time, the city may prune the tree, plant or shrub and assess the cost as established in section 3-1-3 of this code to the owner as provided by law in the case of special assessments. (Ord. 2017-01, 1-3-2017)

B. Diseased And Infected Vegetation:

1. Inspections:

a. Right Of Entry: The city may enter upon private lands to inspect trees, plants or shrubs whereon insect pests and plant diseases may be found to have injuriously affected any of said trees, plants or shrubs or which may injuriously affect the public health and welfare.

b. Authority To Inspect: The city may conduct field inspections, including the removal of specimens for laboratory analysis that may be necessary to determine the presence of said infestation or to locate any private lands, which might serve as a breeding place for diseases or insects.

c. Notice Of Inspection: Before making any inspection on private property, the city shall give notice of the inspection to all affected residents and property owners either through an individual oral or written notice, or by publishing the notice in a local newspaper.

2. Notice Of Disease Condition: If a disease or insect infestation is found, the city may, by written notice, give the property owner a definitive time but not less than twenty (20) days, to remove, treat or dispose of the infested trees, plants or shrubs. (Ord. 2004-15)

3. Failure To Comply: If the work is not satisfactorily completed within the time prescribed, the city may enter upon the property and remove and/or treat the infested area and assess the cost as established in section 3-1-3 of this code to the owner as provided by law in the case of special assessments. (Ord. 2017-01, 1-3-2017)

5-6-6: INTERFERENCE WITH ENFORCEMENT OFFICIALS:

It shall be unlawful for any person to prevent, delay or interfere with city employees or authorized agents while they are engaged in and about the planting, cultivating, mulching, pruning, spraying, inspecting or removing, or any other designated task or duty concerning street, park or public trees, or trees on private grounds as authorized by this chapter; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city. (Ord. 2004-15)

5-6-7: MISDEMEANOR VIOLATION; PENALTY:

Any person violating or failing to comply with any of the provisions of this chapter or any permission slips issued hereunder shall be guilty of a misdemeanor, and shall be punished pursuant to section 1-4-1 of this code, plus the costs of prosecution. Each day the violation continues shall be considered a separate offense. (Ord. 2017-01, 1-3-2017)

CHAPTER 7

GARBAGE AND REFUSE CONTAINERS

SECTION:

5-7-1: Definitions

5-7-2: Waste/Refuse Removal Required; Nuisance Declared

5-7-3: Container Requirements

5-7-4: Preparation Of Garbage For Disposal

5-7-5: Garbage Disposals

5-7-6: Misdemeanor Violation; Penalty

5-7-1: DEFINITIONS:
The following words and phrases, when used in this chapter, shall have the meanings as set out herein:

GARBAGE: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

REFUSE: All putrescible and nonputrescible solid wastes (except body wastes), dead animals, and solid market and industrial wastes. (Ord. 1989-8; amd. 2005 Code)

5-7-2: WASTE/REFUSE REMOVAL REQUIRED; NUISANCE DECLARED:

A. Waste shall be removed from all premises at least once every seven (7) days, and every person shall keep his premises at all times free and clean from same.

B. Any accumulation of refuse/garbage on any premises not stored in containers which comply with city regulations or any accumulation of refuse on any premises which has remained thereon for more than one week is hereby declared to be a nuisance and may be abated by order of the zoning administrator, as provided by section 5-1-11 of this title, and costs of abatement may be assessed on the property where the nuisance was found. (Ord. 1989-8; amd. 2005 Code)

5-7-3: CONTAINER REQUIREMENTS:

A. Number: A sufficient number of waste containers for accumulation of waste between normal pick up shall be provided.

B. Maintenance: All waste containers shall at all times be maintained and kept neat and clean and in good order by the owner, occupant or person in charge of any premises in the city. Such containers shall be disinfected with a disinfectant solution as often as necessary to maintain them in a sanitary condition. (Ord. 1989-8)

C. Inspection: All waste containers shall be subject to inspection and approval by the zoning administrator. Filthy, leaking or defective containers shall be cleaned, repaired or replaced by and at the expense of the owner, lessee or person in charge of the premises in question at the direction of the city administrator.

D. Location Of Containers:

1. Residential Containers:

a. Regular Storage: It shall be the duty of every owner, occupant or person in charge of any premises to place the waste containers on the ground or above ground level at an accessible outdoor or indoor location that may be conveniently and economically serviced. However, waste containers shall be stored indoors or in the side or rear yards of a dwelling unit and screened from neighboring properties and public rights of way, except as otherwise provided herein. Containers shall not be placed or maintained in such a way as to unreasonably interfere with the use of adjoining property. Containers placed outdoors shall be placed in such a manner as not to permit entry of or harborage for animals, insects or other vermin. (Ord. 1989-8; amd. 2005 Code)

b. Pick Up Day: Permanent waste containers, bulky materials, disposable and sealed containers used by SR homes, containing waste, may be placed on the curbside for pick up, but may not be placed on the curbside any earlier than sunset preceding the day of scheduled pick up and must be removed by sunset of the scheduled pick up day. The city council may, by resolution, designate a two (2) week period in both spring and fall during which large quantities of bulky material may be placed on the curbside for the purpose of facilitating seasonal cleanup of residential properties. (Ord. 1989-8)

2. Institutional, Multiple-Family (4 Or More Units), Commercial And Industrial Containers: Institutional, multiple-family (4 or more units), commercial, and industrial waste containers not mounted on wheels shall be stored on durable racks placed on an easily cleanable surface and screened from view. The racks, when placed on the surface, shall be raised above the ground. Containers mounted on wheels shall be specifically designed for use with collection vehicles, and said containers must be placed on a concrete or other nonpenetrable surface. All refuse, rcyclable materials and necessary handling equipment including, but not limited to, garbage cans, recycling bins, and dumpsters shall be stored within the principal structure, within an accessory building, or within a trash enclosure that totally screens the equipment from eye level view from all neighboring uses and the public right of way. Trash enclosures that contain refuse and recyclable material or equipment shall require the following:

a. Exterior wall of the trash enclosure shall be masonry or similar and/or complement the principal building.

b. The enclosed trash and/or recycling receptacle/enclosure area shall be located in the rear or side yard and shall observe all applicable accessory building setback requirements and easements.

c. The trash and/or recycling enclosure shall be in an accessible location for pick up hauling vehicles.

d. The trash and/or recycling receptacles shall be fully screened from view of adjacent properties and the public right of way by a fence or wall of at least six feet (6') in height.

e. All dumpsters, recycling bins, handling equipment, and enclosures shall be approved by the zoning administrator and shall be kept in a good state of repair with lids designed to prevent spilling and spreading of debris and access by animals. All designs and construction of trash enclosures shall be subject to approval by the city building official. (Ord. 1989-8; amd. 2005 Code)

5-7-4: PREPARATION OF GARBAGE FOR DISPOSAL:
It shall be the duty of the owner, occupant or person in charge of any premises to cause all garbage produced on the premises to be securely wrapped, bagged and placed in either a sealed disposable container or permanent container as defined herein, as soon as practicable after the same is produced on the premises. All garbage placed in permanent containers shall be bagged or wrapped in such a manner as will permit its free passage out of said container. All liquid waste shall be confined in a leakproof container. (Ord. 1989-8)

5-7-5: GARBAGE DISPOSALS:
Organic garbage may be disposed of by grinding and finely shredding it and disposing of it through pipes leading to a public sanitary sewer; provided, that all garbage so disposed of in such pipes shall be ground or shredded to such a degree that all particles are carried freely under the flow conditions normally prevailing in the sewers into which the same is deposited. Nonorganic garbage shall not be deposited in the sewer. (Ord.

1989-8; amd. 2005 Code)

5-7-6: MISDEMEANOR VIOLATION; PENALTY:
Any person violating any provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-4-1 of this code. (Ord. 1989-8; amd. 2005 Code)

CHAPTER 8

ILLICIT DISCHARGE DETECTION AND ELIMINATION

SECTION:

5-8-1: Purpose And Objectives

5-8-2: Definitions

5-8-3: Applicability

5-8-4: Responsibility For Administration

5-8-5: Illegal Disposal And Dumping

5-8-6: Discharge Prohibitions

5-8-7: Suspension Of MS4 Access

5-8-8: Industrial Or Construction Activity Discharges

5-8-9: Monitoring Of Discharges

5-8-10: Requirement To Prevent, Control, And Reduce Stormwater Pollutants By The Use Of Best Management Practices

5-8-11: Watercourse Protection

5-8-12: Salt Storage

5-8-13: Notification Of Spills

5-8-14: Enforcement

5-8-15: Appeal Of Notice Of Violation

5-8-16: Enforcement Measures After Appeal

5-8-17: Cost Of Abatement Of The Violation

5-8-18: Criminal Prosecution

5-8-1: PURPOSE AND OBJECTIVES:
The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the City of Albertville through the regulation of non-stormwater discharges to the storm sewer system to the maximum extent practicable as required by State and Federal law. This chapter establishes methods for controlling the introduction of pollutants into the Municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) MS4 permit process. The objectives of this chapter are:

A. To regulate the contribution of pollutants to the Municipal separate storm sewer system by stormwater discharges by any user.

B. To prohibit illicit connections and discharges to the Municipal separate storm sewer system.

C. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter. (Ord. 2018-04, 1-16-2018)

5-8-2: DEFINITIONS:
For the purposes of this chapter, the following terms shall have the following meanings:

AUTHORIZED ENFORCEMENT AGENCY: Employees or designees of the City of Albertville or the Minnesota Pollution Control Agency as designated to enforce this chapter.

BEST MANAGEMENT PRACTICES (BMPs): Techniques proven to be effective in controlling runoff, erosion and sedimentation including those documented by the Minnesota Pollution Control Agency (MPCA) and other sources as approved by the City, as may be amended. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CITY: The City of Albertville.

CONSTRUCTION ACTIVITY: Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more and projects that disturb less than one acre if they are part of a larger common plan of development. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DISCHARGE: Adding, introducing, releasing, leaking, spilling, casting, throwing, or emitting any pollutant, or placing any pollutant where it is likely to pollute public waters.

GROUNDWATER: Water contained below the surface of the earth in the saturated zone, including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or in rock formations deeper underground.

HAZARDOUS MATERIALS: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment, when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE: Any direct or indirect non-stormwater discharge to the storm sewer system, except as exempted in this chapter.

ILLICIT CONNECTION:

A. An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm sewer system including,

but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm sewer system and any connections to the storm sewer system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the storm sewer system which has not been documented in plans, maps, or equivalent records and approved by the City.

INDUSTRIAL ACTIVITY: Activities subject to NPDES industrial permits as defined in 40 CFR, section 122.26(b)(14).

MPCA: Minnesota Pollution Control Agency.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances (including sidewalks, roads with drainage systems, Municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains) owned or operated by the City and designed or used for collecting or conveying stormwater, and not used for collecting or conveying wastewater that discharges to waters of the United States.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: A permit issued by EPA (or by the State of Minnesota under authority delegated pursuant to 33 USC section 1342(b)) that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORMWATER DISCHARGE: Any discharge to the storm sewer system that is not composed entirely of stormwater.

PERSON: Any individual, association, franchise, organization, partnership, firm, corporation or government entity.

POLLUTANT: Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non- hazardous liquids, solid wastes, and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind that may degrade, impair or pollute ground or surface waters.

PREMISES: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and boulevards.

STORM SEWER SYSTEM: Publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, Municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, infiltration, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP): A plan of BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges from leaving the site to the maximum extent practicable in accordance with the standards set forth by the MPCA and City ordinances.

WASTEWATER: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility or property.

WATERS OF THE STATE: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Minnesota or any portion thereof. (Ord. 2018-04, 1-16-2018)

5-8-3: APPLICABILITY:
This chapter shall apply to all water entering the storm sewer system generated on any developed or undeveloped lands unless explicitly exempted by an authorized enforcement agency. (Ord. 2018-04, 1-16-2018)

5-8-4: RESPONSIBILITY FOR ADMINISTRATION:
The City and its authorized representatives are authorized to administer, implement, and enforce the provisions of this chapter. (Ord. 2018-04, 1-16-2018)

5-8-5: ILLEGAL DISPOSAL AND DUMPING:
A. No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alley, sidewalk, storm drain inlet, catch basin conduit or drainage structure, business, or upon any public or private land, so that the same might be or become a pollutant, unless the substance is in containers, recycling bags, or any other lawfully established waste disposal device.

B. No person shall intentionally dispose of grass, leaves, dirt, or landscape material into a water resource, buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance. (Ord. 2018-04, 1-16-2018)

5-8-6: DISCHARGE PROHIBITIONS:
A. Illegal Discharges: No person shall discharge or cause to be discharged into the Municipal storm sewer system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm sewer system is prohibited except as described as follows.

B. Discharge Exemptions:

1. The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (the water must be allowed to sit 7 days without the addition of chlorine to allow for chlorine to evaporate before discharging to the storm sewer system), fire fighting activities, and any other water source not containing pollutants, and the use of fertilizers, herbicides and pesticides for agricultural or landscaping purposes when applied for their intended purpose in accordance with label directions and with all applicable local, State and Federal ordinances, laws and regulations.

2. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge, but requires a verbal notification to the City Engineer 48-hours prior to the start of the test.

4. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the MPCA or Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm sewer system.

C. Illicit Connections:

1. The construction, use, maintenance or continued existence of illicit connections to the storm sewer system is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue. (Ord. 2018-04, 1-16-2018)

5-8-7: SUSPENSION OF MS4 ACCESS:

A. Suspension Due To Illicit Discharges In Emergency Situations: The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the State, or to minimize danger to persons.

B. Suspension Due To The Detection Of Illicit Discharge: Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access.

C. Reinstatement To Terminated Premises: A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the City. (Ord. 2018-04, 1-16-2018)

5-8-8: INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES:

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Written proof of compliance may be required prior to discharge to the City's MS4. (Ord. 2018-04, 1-16-2018)

5-8-9: MONITORING OF DISCHARGES:

A. The City shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger does not wish to allow the City to enter a building to conduct the required activity, they may retain a private inspector to conduct the activity. The private inspector must have credentials that are acceptable to the City. The private inspector shall provide the City with relevant samples, test results, reports or any other information that is being requested.

B. Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of the NPDES permit to discharge stormwater, and the performance of any additional duties as defined by State and Federal law.

C. The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy per manufacturer's recommendations.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.

E. Unreasonable delays in allowing the City access to a permitted facility are a violation of a stormwater discharge permit and of this section. A person who is the operator of the facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this section.

F. If the City has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction. (Ord. 2018-04, 1-16-2018)

5-8-10: REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES:

Compliance with all terms and conditions of a valid NPDES permit shall be deemed compliant with the provisions of this section. The City will adopt requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm sewer system, or waters of the State. The owner or operator of such activity, operation or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm sewer system or waters of the State through the use of these structural and non- structural BMPs. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at their expense, additional BMPs to prevent the further discharge of pollutants to the City's MS4. (Ord. 2018-04, 1-16-2018)

5-8-11: WATERCOURSE PROTECTION:

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. (Ord. 2018-04, 1-16-2018)

5-8-12: SALT STORAGE:

A. Salt storage at commercial, institutional, and non-NPDES permitted industrial facilities must comply with the following:

1. Designated salt storage areas must be covered or indoors;

2. Designated salt storage areas must be located on an impervious surface; and

3. Implementation of practices to reduce exposure when transferring material in designated salt storage areas, such as sweeping, diversions, and/or containment. (Ord. 2023-04, 3-20-2023)

5-8-13: NOTIFICATION OF SPILLS:

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the storm sewer system, or waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such a release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall

notify the City in person or by telephone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Albertville within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. (Ord. 2018-04, 1-16-2018)

5-8-14: ENFORCEMENT:

A. Notice Of Violation: Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the City may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. The violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
5. Payment of a fine to cover administrative and remediation costs;
6. The implementation of source control or treatment BMPs; and
7. The deadline within which to remedy the violation.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. (Ord. 2018-04, 1-16-2018)

5-8-15: APPEAL OF NOTICE OF VIOLATION:

Any person receiving a Notice of Violation may appeal the determination of the City. The notice of appeal must be received by the City within seven (7) calendar days from the date of the Notice of Violation. The appeal shall be heard by the City Council within thirty (30) calendar days from the date of receipt of the notice of appeal. The decision of the City Council shall be final. (Ord. 2018-04, 1-16-2018)

5-8-16: ENFORCEMENT MEASURES AFTER APPEAL:

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within the deadline extended by the decision of the City Council, then representatives of the City shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the City or its designated contractor to enter upon the premises for the purposes set forth above. (Ord. 2018-04, 1-16-2018)

5-8-17: COST OF ABATEMENT OF THE VIOLATION:

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs, and the deadline to pay the abatement costs. If the amount due is not paid within a timely manner as determined by the decision of the City Council after hearing the appeal, the charges shall be filed with Wright County and shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. (Ord. 2018-04, 1-16-2018)

5-8-18: CRIMINAL PROSECUTION:

Any person that has violated or continues to violate this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, may be subject to the maximum fine and imprisonment allowed by State law. Each such violation shall constitute a separate offense punishable to the maximum extent of the law.

The authorized enforcement agency may recover all attorneys' fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses. (Ord. 2018-04, 1-16-2018)

TITLE 6

PUBLIC SAFETY

CHAPTER 1

VOLUNTEER FIRE DEPARTMENT

SECTION:

6-1-1: Fire Department Established; Composition

6-1-2: Qualifications Of Members

6-1-3: Fire Chief

6-1-4: Board Of Officers

6-1-5: Standard Operating Procedures

6-1-6: Duties Of Department Officers

6-1-7: Dismissals

6-1-8: Prohibited Acts

6-1-9: Fire Relief Association

6-1-1: FIRE DEPARTMENT ESTABLISHED; COMPOSITION:

There is hereby established in the City a volunteer Fire Department, consisting of a Fire Chief, a Deputy Fire Chief, an Assistant Fire Chief, a Board of Officers, and not less than ten (10) nor more than thirty-three (33) firefighters, including the above positions. The number of firefighters shall be determined by the City Council.

(Ord. 2017-13, 12-18-2017; amd. Ord. 2021-01, 1-4-2021)

6-1-2: QUALIFICATIONS OF MEMBERS:

A. Eligibility: Each member shall meet the requirements outlined in the Fire Department's Standard Operating Policies and Procedures.

B. Probation: Each applicant accepted by the Fire Department shall serve a one-year probationary period, as outlined in the Fire Department's Standard Operating Policies and Procedures. At any time during the probationary period, the firefighter may be dismissed if the employee's performance does not meet the required standards.

C. Additional Requirements: Probationary and regular firefighters shall meet such additional qualifications as set forth in the Department Standard Operating Policies and Procedures.

(Ord. 2015-08, 9-8-2015; amd. Ord. 2021-01, 1-4-2021)

6-1-3: FIRE CHIEF:

A. Appointment: The Fire Chief shall be appointed by a majority of the City Council.

B. Duties: The Fire Chief or designee shall perform the duties of the Fire Marshal as set forth in the City Fire Code.

(2005 Code; amd. Ord. 2015-08, 9-8-2015; Ord. 2021-01, 1-4-2021)

6-1-4: BOARD OF OFFICERS:

A. Composition: The Board of Officers of the Department shall consist of the Fire Chief, Deputy Fire Chief, Assistant Fire Chief, four (4) Captains and three (3) Lieutenants.

B. Duties: The duties of the Board of Officers shall be set forth in the Department's Standard Operating Policies and Procedures.

(Ord. 2017-13, 12-18-2017; amd. Ord. 2021-01, 1-4-2021)

6-1-5: STANDARD OPERATING PROCEDURES:

The Department shall adopt Standard Operating Policies and Procedures at the direction of the Board of Officers, subject to the confirmation of the City Council. The Standard Operating Policies and Procedures shall be consistent with this chapter and all other present or subsequent City ordinances. If the Department's Standard Operating Policies and Procedures conflict with a City ordinance, the City ordinance shall prevail.

(Ord. 2015-08, 9-8-2015; amd. Ord. 2021-01, 1-4-2021)

6-1-6: DUTIES OF DEPARTMENT OFFICERS:

The duties of the Fire Chief, Deputy Fire Chief, Assistant Fire Chief, and all other elected or appointed officers of the Department shall be set forth in the Standard Operating Policies and Procedures of the Department.

(Ord. 2017-13, 12-18-2017; amd. Ord. 2021-01, 1-4-2021)

6-1-7: DISMISSALS:

The Board of Officers or City Council may dismiss probationary firefighters at any time during the probationary period if the employee's performance does not meet the required standards as outlined in the Fire Department's Standard Operating Policies and Procedures. The City Council may also dismiss regular firefighters or may remove appointed Officers of the Department for cause.

(Ord. 2015-08, 9-8-2015; amd. Ord. 2021-01, 1-4-2021)

6-1-8: PROHIBITED ACTS:

It shall be unlawful for any person to give or make, or cause to be given or made, an alarm without probable cause, or to neglect or refuse to obey any reasonable order of the Chief at a fire, or to interfere with the Department in the discharge of its duties; and any person guilty of violating this section shall be punished as provided in section 1-4-1 of this Code.

(2005 Code; amd. Ord. 2021-01, 1-4-2021)

6-1-9: FIRE RELIEF ASSOCIATION:

There is hereby continued in the City a Fire Relief Association, whose function is to, under the guidance of Federal and State Statutes, and the Bylaws of the Association, provide retirement and ancillary benefits for individuals providing the governmental services of firefighting and emergency first response.

(Ord. 2021-01, 1-4-2021)

CHAPTER 2

ANIMAL CONTROL [1]

SECTION:

6-2-1: Definitions

6-2-2: Animal Control Authority

6-2-3: Limits Of Dogs On One Property

6-2-4: Identification Required

6-2-5: Dogs At Large Prohibited

6-2-6: Abandonment Of Animals Prohibited

6-2-7: Rabies Control

6-2-8: Diseased Animals

6-2-9: Confinement Of Animals That Bite

6-2-10: Wild Or Vicious Animals Prohibited

6-2-11: Nuisance, Vicious Animals

6-2-12: Dogs Disturbing The Peace

6-2-13: Impoundment Of Dogs

6-2-14: Redemption Of Impounded Animals

6-2-15: Excrement Removal

6-2-16: Commercial Kennels

6-2-17: Private Kennels (Rep. by Ord. 2018-07, 3-5-2018)

6-2-18: Maintenance, Location, And Condition Of Animal Quarters And Commercial Kennels

6-2-19: Dangerous Or Potentially Dangerous Dogs

6-2-20: Enforcement

6-2-21: Records Kept

6-2-22: Misdemeanor Violation; Penalties

Notes

1 1. See also appendix A, chapter 2300 of this Code for zoning regulations.

6-2-1: DEFINITIONS:
Unless the context clearly indicates otherwise, the words, combination of words, terms, and phrases as used in this chapter shall have the meanings set forth as follows:

ANIMAL CONTROL AUTHORITY:	A person employed by or under contract with the City or Wright County who is responsible for animal control enforcement and investigating noise complaints, including all on duty Wright County Deputies and the Wright County Sheriff while operating in the City.
AT LARGE:	A dog is "at large" when it is off the property of the person owning, harboring, or keeping said dog, and it is not under restraint by a leash not exceeding six feet (6') in length or within a vehicle being driven or parked on a street or within the property limits of the owner's premises.
CAT:	Both the male and female of the Felidae species commonly accepted as domesticated household pets.
CITATION:	A notice or complaint issued by the animal control authority to the owner of any animal apprising said owner of one or more violations of this chapter.
DOG:	Both male and female of the canine species commonly accepted as domesticated household pets.
KENNEL, COMMERCIAL:	Any place where: a) more than two (2) dogs over six (6) months of age are owned, kept, boarded, or bred for purposes of sale; or b) more than two (2) dogs over six (6) months of age and owned by persons other than the kennel owner are kept or boarded for a fee or other remuneration.
KENNEL RUN:	Enclosed area, indoor or outdoor, whereupon animals are kept to allow such animals to exercise.
OWNER:	Any person owning, keeping, harboring, or acting as custodian of a dog or other domesticated animal.
PERSON:	One or more natural persons; a partnership, including a limited partnership; a corporation; a trust; or any other business organization or association.
PREMISES:	Any building, structure, shelter, or land whereon dogs or other animals are kept or confined.
PUBLIC NUISANCE ANIMAL OR ANIMALS:	Any animal which: A.If a dog, is repeatedly found at large. B.Damages the property of anyone other than its owner. C.Is a vicious animal. D.Causes fouling of the air by odor. E.Causes unsanitary conditions of enclosures or surroundings. F.By virtue of number or types of animals maintained, is offensive or dangerous to the public health, safety, or welfare. G.Excessively makes disturbing noises[1] . H. Molests passersby or passing vehicles. I. Attacks other domestic animals.
SERVICE ANIMAL:	An animal that is individually trained to do work or perform tasks for people with disabilities. Service animals are working animals, not pets. A service animal must have completed a skills test and be recognized by a professional training service as a service animal. A dog whose sole function is to provide comfort or emotional support does not qualify as a service animal.
UNDER RESTRAINT:	A dog is "under restraint" if it is on the premises of the person harboring or keeping the dog; if it is within a private motor vehicle of a person owning, harboring, or keeping the dog; or if it is controlled by a leash not exceeding six feet (6') in length.

VETERINARY CLINIC:	Place for the treatment, hospitalization, surgery, care, and boarding of animals, which place is owned and operated by a licensed veterinarian.
VICIOUS ANIMAL OR ANIMALS:	Any animal or animals which constitute a physical threat to human beings or other animals by virtue of one or more attacks of such severity as to cause property damage or physical injury, however slight. (Ord. 2007-04, 4-2-2007; amd. Ord. 2018-07, 3-5-2018; Ord. 2021-11, 8-2-2021)

Notes

1

6-2-2: ANIMAL CONTROL AUTHORITY:

A. The City Council may appoint or designate an animal control authority to enforce the provisions of this chapter and to perform such duties in connection with the enforcement hereof as the City Administrator or this Code may direct. The City Administrator may authorize, at times as he or she may deem necessary, persons to be designated under animal control authority to purchase equipment for the purpose of capturing and conveying to an animal pound all animals in violation of this Code.

B. The designee shall under the supervision of the animal control authority and the City Administrator may be authorized to issue violation tags and to carry and display appropriate badges or identification.

C. No person shall in any manner molest, hinder, or interfere with the animal control authority employed directly or by contract with the City to capture animals and convey them to the animal pound while such person is engaged in such occupation. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-3: LIMITS OF DOGS ON ONE PROPERTY:

No person shall own, harbor, or keep upon their premises more than two (2) dogs over the age of six (6) months at one time. A property may contain three (3) dogs if one or more are service animals as defined in this chapter. (Ord. 2021-11, 8-2-2021)

6-2-4: IDENTIFICATION REQUIRED:

All dogs and cats are required to have some identification on them that would assist animal control in contacting the owner. Identification allowed under this subdivision include microchips, veterinarian issued rabies certificates, or any tags or collars with contact information and phone number(s) inscribed on it. (Ord. 2021-11, 8-2-2021)

6-2-5: DOGS AT LARGE PROHIBITED:

No dog shall be allowed by its owner to run at large, and every owner of a dog shall cause the same to be:

A. Confined to the owner's property by training, fencing, or leashing, and females in heat shall be confined in an enclosure and so kept and confined therein during such entire period and until such dogs shall not attract other dogs on account thereof.

B. While in any public place, such as a school, playground, or a park, to be on a leash, chain, or cord of not more than six feet (6') in length and in the custody of a person of sufficient age to adequately control the dog at all times.

C. While in all other areas, such as on a public street or in an automobile, to be in the custody of a person of sufficient age to adequately control the dog at all times, and to have and keep said dog under control. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-6: ABANDONMENT OF ANIMALS PROHIBITED:

It shall be unlawful to abandon any dog or other animal within the City. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-7: RABIES CONTROL:

A. Vaccination Of Dogs And Cats Required:

1. All dogs and cats over the age of six (6) months, kept, harbored, maintained or transported within the City shall have current vaccinations given by a licensed veterinarian for rabies.

2. A copy of certificate of vaccination shall be provided to the animal control authority or designee upon request.

B. Impoundment And Confinement Of Rabies Suspects:

1. Any dog or cat not vaccinated in accordance with subsection A of this section which has bitten any person and caused an abrasion or puncture of the skin of such person shall be seized and impounded under the supervision of a licensed veterinarian or at the City contract kennel facility for a period of not less than ten (10) days. If, after a complete examination by a veterinarian, the dog or cat has no clinical sign of rabies, it may be released to the owner upon the condition that the owner have the animal vaccinated as required by subsection A of this section and licensed as required by subsection 6-2-3A of this chapter. In the case of a stray, the animal shall be disposed of in accordance with the applicable laws. It shall be unlawful for any owner or person having custody or control of any dog or cat not vaccinated in accordance with subsection A of this section and which has bitten any person to refuse to release such dog or cat and make it immediately available to the animal control authority for the purpose of quarantine.

2. Any dog or cat vaccinated in accordance with subsection A of this section which has bitten any person shall be confined by the owner or other responsible person in such manner as the animal control authority may direct and for a period of not less than ten (10) days. The animal control authority or authorized representative shall conduct a midterm and terminal examination of the animal. If no signs of rabies are observed by the animal control authority, the dog or cat may be released from confinement. It shall be unlawful for any owner or person in custody or control of any vaccinated dog or cat which has bitten any person to refuse or fail to quarantine such dog or cat as required by this subsection B2. The animal control authority, or his/her agent, shall seize any dog or cat not quarantined in accordance with this subsection B2.

3. Any other animal which has bitten any person and caused an abrasion or puncture of the skin of such person shall be seized and impounded under the supervision of a licensed veterinarian or at the City contract kennel facility for a period of not less than ten (10) days. If, after a complete examination by a veterinarian, the animal has no clinical signs of rabies, the animal may, with the approval of the animal control authority, be released to the owner. In the case of an unclaimed animal, it shall be disposed of in accordance with applicable laws. It shall be unlawful for any owner or person in custody or control of any animal which has bitten any person to refuse to release such animal and make it immediately available to the animal control authority for the purpose of quarantine.

4. Any rabies suspect impounded or confined under this subsection which is found to be sick or diseased shall be reported immediately in writing to the animal control authority by the attending veterinarian or operator of the quarantine facility. The animal control authority shall then take possession of such animal for the purpose of determining if it is suffering from rabies. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-8: DISEASED ANIMALS:

A. Any dog or other animal displaying symptoms of being rabid may be seized at any place or time and shall be confined in the city dog pound, or other appropriate place designated for such purpose by the Council from time to time, at the expense of the owner, until found to be free from rabies.

B. If any dog or other animal appears to be diseased, vicious, rabid, or has been exposed to rabies, and such dog or other animal cannot be taken up and impounded without serious risk, such dog or other animal may be killed if reasonably necessary for the safety of any person or persons.

C. When any dog or other animal has bitten any person, wherein the skin has been punctured or the services of a doctor are required, a report of the incident shall be made to the animal control authority by the owner or custodian of the biting dog or animal or the person bitten or his/her parent or guardian within twenty four (24) hours of the bite. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-9: CONFINEMENT OF ANIMALS THAT BITE:

Every fierce, dangerous, or vicious animal, including dogs, that has a history of biting a human or any domestic animal shall be confined by the owner within a building or secure, covered enclosure. Such animal shall not be taken out of such building or secure, covered enclosure unless muzzled and on a leash. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-10: WILD OR VICIOUS ANIMALS PROHIBITED:

No person shall keep or allow to be kept any place in the City an animal of a ferocious or vicious character, habit, or disposition, or any animal which is wild by nature. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-11: NUISANCE, VICIOUS ANIMALS:

No person shall keep, own, harbor, or otherwise possess within the City an animal which is a public nuisance animal or vicious animal. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-12: DOGS DISTURBING THE PEACE:

It shall be unlawful for any person to own, keep, have in possession, or harbor any dog, which shall by any noise, unreasonably or excessively disturb the peace and quiet of any person in the vicinity, including habitual barking which shall be defined as barking or crying for repeated intervals of at least three (3) minutes with one (1) minute or less of interruption. Such barking must also be audible off of the owner's or caretaker's premises. Any person violating this section who, upon first request by an animal control authority or any duly authorized assistant to stop or prevent the unreasonably or excessively disturb the peace, refuses to comply with the request, will be issued a citation; and if the authority deems it necessary to stop the unreasonably or excessively disturb the peace, he/she may have the dog taken to the City animal pound. Any dog placed in the pound may be reclaimed by the owner upon payment of the fee prescribed. If not reclaimed, it may be disposed of in the proper manner. It shall not be a violation of this section if the dog was barking, crying or making other noise due to harassment or injury to the dog or a trespass upon the premises where the dog is located. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-13: IMPOUNDMENT OF DOGS:

A. The animal control authority shall seize and impound any dogs running at large. To enforce this chapter, the animal control authority may enter upon any private premises in pursuit of a dog running at large. It shall be unlawful for any person or persons to interfere with the animal control authority engaged in taking a dog hereunder for impounding or to refuse to surrender a dog to the animal warden for confinement as required.

B. The animal control authority may seize or impound any dog found astray on public property or claimed to be astray by the owner of the premises upon which such animal may be found; provided, that the owner of the premises demands such seizure or impoundment and agrees in writing to indemnify and hold harmless the City from any claim for damages by the owner of said dog. Disposition of such impounded stray shall thereafter be pursuant to the provisions of this chapter. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-14: REDEMPTION OF IMPOUNDED ANIMALS:

A. Fees: The owner or harborer of dogs, cats and other animals impounded shall be liable for all of the following fees:

1. Animal capture fee as established in section3-1-3 of this code.
2. Impoundment fees incurred by the City for boarding and keeping the animal while impounded.
3. Charges and fees incurred by the City for transporting the animal to the animal impound facility.

The animal capture fees, impoundment fees and charges for transporting, boarding and keeping an animal may be modified by ordinance amendment of the City Council from time to time.

B. Release Form: The City Administrator or City Clerk shall deliver a release form to the owner or harborer of a dog after payment to the City of all fees and charges provided for herein, other than the boarding and keeping fees collected directly by the animal impound facility, which release form shall be displayed to the animal impound facility utilized by the City.

C. Disposition Of Unredeemed Animals: If, at the end of six (6) days after said impounding, the dog or other animal has not been redeemed, it may be sold at private sale, or the keeper of the pound may dispose of the dog or other animal in a humane manner. (Ord. 2007-04, 4-2-2007; amd. Ord. 2017-01, 1-3-2017; Ord. 2021-11, 8-2-2021)

6-2-15: EXCREMENT REMOVAL:

A. Owner's Property: The owner of any dog or any person having the custody or control of any dog shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner.

B. Property Of Another; Public Property:

1. It is unlawful for any person owning, keeping, or harboring a dog to cause or permit said dog to be on property, public or private, not owned or possessed by such person, without having in his/her immediate possession a device for the removal of feces and depository for the transmission of excrement to a proper receptacle located on the property owned or possessed by such person.

2. It is unlawful for any person in control of, causing, or permitting any dog to be on any property, public or private, not owned or possessed by such person, to fail to remove feces left by such dog to a proper receptacle located on property owned or possessed by such person.

C. Exemptions: The provisions of this section shall not apply to the ownership or use of seeing eye dogs by blind persons, dogs when used in police activities by the City, or tracking dogs when used by or with the permission of the City.

D. Citation Issuance: Any animal control authority, or any duly authorized officer or agent authorized by the City Administrator, may issue citations. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-16: COMMERCIAL KENNELS:

A. License Required: No person shall operate a commercial dog kennel in the City without first obtaining a license and being compliant with the zoning ordinance.

B. Application For License; Fee: Application for such license shall be made to the City Clerk and shall be accompanied by the fee as established in section 3-1-3 of this Code.

C. Annual Licenses; Expiration; Fee: Commercial kennel licenses shall be issued on an annual basis, expiring on December 31 following the first effective day of the kennel license. The commercial kennel license fee shall be the amount per year or fraction thereof as established in section 3-1-3 of this Code.

D. Number Of Dogs: No person shall own, harbor, or keep upon his premises more than two (2) dogs over the age of six (6) months unless in a commercial kennel duly licensed under this section or the commercial kennel is operated as part of a veterinary clinic operation at the same location. A property may contain three (3) dogs if one or more are service animals as defined in this chapter. The maximum number of dogs permitted in a commercial kennel shall be reflective of the sites ability to function adequately according to section 6-2-18 of this chapter and provide a safe and clean environment. In no case, shall a site be allowed to have more than thirty (30) dogs onsite.

E. Commercial Kennel License: A license for a commercial kennel may be issued by the City Clerk for the keeping of dogs. Such license shall specify any restrictions, limitations, conditions or prohibitions which the animal control authority or the City deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health or safety, including the health and safety of the animals to be housed in the kennel. Such a license may be modified from time to time or revoked by the animal control authority or the City Council for failure to conform to such restrictions, limitations, conditions, or prohibitions. Such modification or revocation shall be effective after ten (10) days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such dogs.

F. Sanitary Premises: Commercial kennels shall be kept in a clean and healthful condition at all times and shall be open for inspection by duly authorized City authorities at any reasonable time. A commercial kennel license may be revoked by the animal control authority or the City Council by reason of the violation of this chapter or any health or nuisance order, laws, or regulations.

G. Zoning Districts: Commercial kennels shall only operate in the following zoning districts:

1. A-1, Agricultural Rural District;
2. B-W, Business Warehousing District;
3. I-1, Limited Industrial District. (Ord. 2018-07, 3-5-2018; amd. Ord. 2021-11, 8-2-2021)

6-2-17: PRIVATE KENNELS:
(Rep. by Ord. 2018-07, 3-5-2018)

6-2-18: MAINTENANCE, LOCATION, AND CONDITION OF ANIMAL QUARTERS AND COMMERCIAL KENNELS

A. Animal housing facilities and commercial kennel facilities shall be structurally sound and maintained in good repair. Indoor housing facilities should be adequately ventilated and have ample light and heat, either natural or artificial.

B. Dogs kept outside shall be provided with access to shelter to protect them from the sun, rain, and snow in accordance with Minnesota Statutes section 343.40, subdivisions 1, 2, 3.

C. If dogs are confined by chains, such chains shall be so attached that they cannot become entangled with the chains of other dogs or any other objects. Chains shall be of a size commonly used for the size of dogs involved and shall be attached to the dog by means of a well fitted collar. Such chains shall be at least three (3) times the length of the dog as measured from the tip of its nose to the base of its tail.

D. Enclosure shall be of sufficient size to allow each dog to turn around fully and stand, sit, and lie in a comfortable normal position. The floors of the enclosure shall be constructed so as to prevent injury to the dog's legs and feet.

E. The temperature for indoor housing facilities shall not be allowed to fall below fifty degrees Fahrenheit (50°F) for dogs not accustomed to lower temperatures.

F. Disposal facilities shall be provided to minimize vermin, infestation, odors, and disease hazards.

G. Adequate storage and refrigeration shall be provided to protect food supplies against contamination and deterioration.

H. Commercial kennels must comply with building setbacks within the applicable zoning district.

I. Commercial kennels may require a building permit if over one hundred twenty (120) square feet in size. (Ord. 2018-07, 3-5-2018; amd. Ord. 2021-11, 8-2-2021)

6-2-19: DANGEROUS OR POTENTIALLY DANGEROUS DOGS:

A. Adoption By Reference Of State Law And County Ordinance: The provisions of Minnesota Statutes chapter 347 (sections 347.50 through 347.565), as it may be amended from time to time, and Wright County Ordinance 10-01, as it may be amended from time to time, are hereby adopted by reference as fully as if set out herein, and shall be administered and enforced by the City's animal control authority and Wright County Sheriff's office and designated pursuant to that law and ordinance.

B. Conflict Of Laws: When any provisions of this section, county ordinance, state laws applicable to dangerous or potentially dangerous dogs are in conflict, the provisions that impose the greater restrictions or protections shall apply. (Ord. 2021-11, 8-2-2021)

6-2-20: ENFORCEMENT:

A. Enforcement Authority: The provisions of this chapter shall be enforced by the animal control authority and those officers designated in this chapter. The animal control authority may issue citations for violations of this chapter.

B. Right Of Entry: The animal control authority shall have the right to enter upon any premises at all reasonable times for the purpose of discharging the duties imposed by this chapter where there is a reasonable belief that a violation of this chapter has been committed. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-21: RECORDS KEPT:
It shall be the duty of the animal control authority to keep the following records, subject to inspection by the Council, City Administrator, or their designated agents:

A. Accurate and detailed records of the licensing, impoundment, and disposition of all animals coming into custody.

B. Accurate and detailed records of all reported bite cases and investigations for a period of three (3) years.

C. Accurate records of all citations issued for violations of this chapter. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

6-2-22: MISDEMEANOR VIOLATION; PENALTIES:
Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in

section 1-4-1 of this Code. (Ord. 2007-04, 4-2-2007; amd. Ord. 2021-11, 8-2-2021)

CHAPTER 3

WEAPONS

SECTION:

6-3-1: Hunting

6-3-2: Discharge, Carrying Firearms

6-3-3: Destruction Of Diseased, Injured, Dangerous Animals Authorized

6-3-4: Misdemeanor Violation

6-3-1: HUNTING:
No person shall hunt, take, capture, shoot or trap any animals within the corporate limits of the city, unless excepted in section 6-3-3 of this chapter. (Ord. 2002-5, 4-1-2002; amd. 2005 Code)

6-3-2: DISCHARGE, CARRYING FIREARMS:
No person, except a police officer in the performance of duty, shall, within the city, discharge any gun, pistol, or firearm of any description or carry any such weapon, unless it is dismantled or broken apart, or carried in a case in such manner that it cannot be discharged. This section does not prevent the carrying of a hand gun within the city under a permit subject to the restrictions imposed by law. (Ord. 2002-5, 4-1-2002)

6-3-3: DESTRUCTION OF DISEASED, INJURED, DANGEROUS ANIMALS AUTHORIZED:
The city council or the chief security officer of the city may specifically authorize any person or persons to destroy diseased, injured or dangerous animals. (Ord. 2002-5, 4-1-2002; amd. 2005 Code)

6-3-4: MISDEMEANOR VIOLATION:
Violation of this chapter shall be punishable as a misdemeanor. (Ord. 2002-5, 4-1-2002)

CHAPTER 4

MINORS

SECTION:

6-4-1: Curfew Regulations

6-4-1: CURFEW REGULATIONS:

A. Definitions: When used in this section, the following words and terms shall have the meanings ascribed to them in this subsection:

CURFEW HOURS:

1. Under the age of sixteen (16), ten o'clock (10:00) P.M. every day of the week until five o'clock (5:00) A.M. of the following day.

2. Under the age of eighteen (18), eleven o'clock (11:00) P.M. every day of the week until five o'clock (5:00) A.M. of the following day.

ESTABLISHMENT: Any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

GUARDIAN:

1. A person who, under court order, is the guardian of the person of a minor; or

2. A public or private agency with whom a minor has been placed by a court.

MINOR: Any person under eighteen (18) years of age.

PARENT: A person who is a natural parent, adoptive parent or stepparent of another person.

PUBLIC PLACE: Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

REMAIN: To:

1. Loiter, linger or stay; or

2. Fail to leave the premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

B. Restrictions: It shall be unlawful for:

1. Any minor to remain in any public place or on the premises of any establishment within the city during curfew hours unless accompanied by a parent or legal guardian.

2. Any parent or guardian to permit, either knowingly or by insufficient control, or allow the minor to remain in any public place or on the premises of any establishment within the city during curfew hours unless accompanied by a parent or legal guardian.

3. Any owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours unless accompanied by a parent or legal guardian.

C. Enforcement: Any minor apprehended while violating any of the restrictions of subsection B of this section shall be escorted home and placed in the custody of the minor's parent or guardian.

D. Penalties:

1. A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. (Ord. 1996-9, 4-1-1996)

2. Any minor who is convicted of a violation of this section and any adult person having the care and custody of such minor is:

a. Minors: Guilty of a petty misdemeanor and shall be punished as established in section3-1-3 of this code, plus all costs of prosecution of this section for a first offense.

b. Parents: Guilty of a petty misdemeanor and shall be punished as established in section 3-1-3 of this code, or community service time as deemed necessary by the presiding judge, plus all costs of prosecution of this section for a first offense.

c. Minors: Guilty of a petty misdemeanor and punished as established in section3-1-3 of this code, plus all costs of prosecution of this section for a second offense within six (6) months of a prior conviction under this section.

d. Parents: Guilty of a petty misdemeanor and punished as established in section3-1-3 of this code, plus all costs of prosecution of this section for a second offense within six (6) months of a prior conviction under this section. (Ord. 2017-01, 1-3-2017)

CHAPTER 5

LOITERING

SECTION:

6-5-1: Prohibited Conduct

6-5-2: Violation

6-5-3: Constitutional Rights Maintained

6-5-4: Misdemeanor Violation; Penalty

6-5-1: PROHIBITED CONDUCT:
It shall be unlawful for any person to loiter, wander, stand or remain idle, either alone or with others, in a public place in such manner so as to violate any of the following provisions:

A. No person shall obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding, or do any act tending to hinder or impede, the free and uninterrupted passage of vehicles, traffic or pedestrians.

B. No person shall commit, in or upon any public street, public highway, public sidewalk or any other public place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress therein, thereon, and thereto.

C. No person shall loiter, stand, sit or lie in or upon any public property, sidewalk, street, curb, crosswalk, walkway area, parking lot, mall, or other portion of private property open for public use, so as to unreasonably block, obstruct, or hinder free passage of the public.

D. No person shall, without consent of the owner or occupant, unreasonably block, obstruct, or hinder free access to the entrance of any building or part of a building open to the public.

E. No person shall loiter, stand, sit or lie in any area where a sign prohibiting loitering has been posted.

F. No person in any public or private place shall use offensive, obscene, or abusive language, or grab, follow, or engage in any conduct which unreasonably tends to arouse alarm, anger, fear, or resentment in another. (Ord. 1996-17, 7-1-1996)

6-5-2: VIOLATION:
When any person causes or commits any of the acts enumerated in section6-5-1 of this chapter, and is ordered by the owner, agent, manager, or person in charge of the premises, or by any law enforcement officer, to stop causing or committing such acts and to move on or disperse, and fails or refuses to obey such an order or returns to the premises within twenty four (24) hours after having been so requested or ordered, shall be guilty of a violation of this chapter. (Ord. 1996-17, 7-1-1996)

6-5-3: CONSTITUTIONAL RIGHTS MAINTAINED:
Acts authorized as an exercise of a person's constitutional right to freedom of speech and assembly shall not constitute a violation of this chapter. (Ord. 1996-17, 7-1-1996)

6-5-4: MISDEMEANOR VIOLATION; PENALTY:
Any person who shall knowingly violate this chapter shall, upon conviction thereof, be guilty of a misdemeanor and punished pursuant to section1-4-1 of this code. (Ord. 2017-01, 1-3-2017)

CHAPTER 6

SEXUAL OFFENDERS AND SEXUAL PREDATORS

SECTION:

6-6-1: Findings And Intent

6-6-2: Definitions

6-6-3: Residence Prohibition; Penalties; Exceptions

6-6-4: Renting Real Property; Penalties

6-6-5: Severability

6-6-1: FINDINGS AND INTENT:
A. Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

B. It is the intent of this chapter to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence. (Ord. 2006-10, 7-5-2006)

6-6-2: DEFINITIONS:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

DESIGNATED OFFENDER: Any person who has been convicted of a designated sexual offense, regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, or has been categorized as a level III sex offender under Minnesota statutes section 244.052 or successor statute.

DESIGNATED SEXUAL OFFENSE: A conviction, adjudication of delinquency, commitment under Minnesota statutes chapter 253B, or admission of guilt under oath without adjudication involving any of the following offenses:

Minnesota statutes sections: 609.342; 609.343; 609.344; 609.345; 609.352; 609.365; 617.23; 617.246; 617.247; 617.293; successor statutes; or a similar offense from another state.

PERMANENT RESIDENCE: A place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

TEMPORARY RESIDENCE: A place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence. (Ord. 2006-10, 7-5-2006)

6-6-3: RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS:

A. Prohibited Location Of Residence: It is unlawful for any designated offender to establish a permanent residence or temporary residence: 1) within one thousand feet (1,000') of any school, licensed daycare center, park, or playground; or 2) within one thousand feet (1,000') of any place of worship which provides regular educational programs (i.e., Sunday school), or other places where children are known to congregate.

B. Prohibited Activity: It is unlawful for any designated offender to participate in a holiday event involving children under eighteen (18) years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no nonfamilial children are present, are exempt from this subsection.

C. Measurement Of Distance:

1. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of a school, daycare center, park, playground, place of worship, or other place where children regularly congregate.

2. The city clerk shall maintain an official map showing prohibited locations as defined by this chapter. The clerk shall update the map at least annually to reflect any changes in the location of prohibited zones.

D. Penalties: Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-4-1 of this code. Each day a person maintains a residence in violation of this chapter constitutes a separate violation.

E. Exceptions: A designated offender residing within a prohibited area as described in subsection A of this section does not commit a violation of this section if any of the following applies:

1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota statutes sections 243.166, 243.167, or successor statute, prior to July 10, 2006.

2. The person was a minor when he/she committed the offense and was not convicted as an adult.

3. The person is a minor.

4. The school or daycare center within one thousand feet (1,000') of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota statutes section 243.166 or 243.167.

5. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children.

6. The residence is a property owned or leased by the Minnesota department of corrections. (Ord. 2006-10, 7-5-2006)

6-6-4: RENTING REAL PROPERTY; PENALTIES:

A. It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this chapter, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in subsection 6-6-3A of this chapter.

B. A property owner's failure to comply with provisions of this section shall constitute a violation of this section.

C. If a property owner discovers or is informed that a tenant is a designated offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager may evict the offender. (Ord. 2006-10, 7-5-2006)

6-6-5: SEVERABILITY:

Should any section, subdivision, clause or other provision of this chapter be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of this chapter as a whole, or of any part thereof, other than the part held to be invalid. (Ord. 2006-10, 7-5-2006)

TITLE 7

MOTOR VEHICLES AND TRAFFIC

CHAPTER 1

GENERAL TRAFFIC PROVISIONS

SECTION:

7-1-1: Unreasonable Acceleration; Erratic Driving

7-1-2: Vehicles With Lugs; Vehicle Weight And Load

7-1-3: Vehicles On Wastewater Treatment Control Dike

7-1-1: UNREASONABLE ACCELERATION; ERRATIC DRIVING:

A. Definitions: For the purposes of this section, the words and phrases defined in this subsection shall have the meanings herein given them:

ERRATIC DRIVING: Driving a motor vehicle in an erratic manner, or the squealing of tires, grinding of gears, backfiring, or producing of loud noises with a vehicle in any manner whatsoever, except by an authorized emergency vehicle.

MOTOR VEHICLE: Every vehicle which is self-propelled and not deriving its power from overhead wires. "Motor vehicle" does not include an electric personal assistive mobility device or a vehicle moved solely by human power.

UNREASONABLE ACCELERATION: Acceleration of a motor vehicle which unnecessarily breaks traction between a tire or tires and the driving surface, thereby causing a prolonged squealing or screeching sound by the tires, or the unnecessary throwing of sand or gravel by the tire or tires of said vehicle or both. Prima facie evidence of such unreasonable acceleration shall be squealing or screeching sounds by the tire or tires or the unnecessary throwing of sand or gravel by the tire or tires, or both.

VEHICLE: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or "electric personal assistive mobility device" as said term is defined in state statute or devices used exclusively upon stationary rails or tracks.

B. Unreasonable Acceleration Prohibited; Nuisance Declared: Unreasonable acceleration by any motor vehicle upon any public or private street, road, parking lot, or driving way within the corporate limits of the city, as "unreasonable acceleration" is defined in this section, is hereby declared to be a public nuisance and is prohibited.

C. Erratic Driving Prohibited: No person shall drive or operate a motor vehicle on a public highway or street, public or private parking lot, alley or other public property within the corporate limits of the city in an erratic manner.

D. Misdemeanor Violation; Penalties: Any person violating any provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-4-1 of this code. (Ord. 1989-13, 8-7-1989; amd. 2005 Code)

7-1-2: VEHICLES WITH LUGS; VEHICLE WEIGHT AND LOAD:

A. Lugs: Tractors or other vehicles with lugs thereon or any other types of farm machinery that are not equipped with rubber tires are hereby prohibited from using bituminous treated streets and parking lots in the city.

B. Weight:

1. It is prohibited for any person or party to drive any vehicle over any street or parking lot when such vehicle has an axle weight load in excess of four (4) tons, unless permission is obtained and granted by the city council.

2. It is prohibited for any person or party to operate, store, or park any vehicle having a classification of 4 or above per MNDOT standards on any primarily residential street within the city between the hours of 6:00 p.m. and 6:00 a.m., unless said vehicle is actively engaged in emergency or city vehicle use or making a pickup or delivery at a residential dwelling. Only vehicle classes 1-3, with the exception for one (1) class 4 recreational vehicle that is stored on a residential lot in compliance with Section 1000.15.A.2 of the Albertville code, shall be permitted.

3. It is hereby prohibited to operate vehicles having a classification of 4 or above per MNDOT standards, on the following designated streets between the hours of 6:00 p.m. and 6:00 a.m., unless said vehicle is actively engaged in emergency or city vehicle use or making a pickup or delivery at a residential dwelling:

Street	From	To
57th St NE	Main Ave NE	Barthel Industrial Dr NE
55th St NE	Main Ave NE	Barthel Industrial Dr NE
54th St NE	Main Ave NE	Barthel Industrial Dr NE
51st St NE	Main Ave NE	Barthel Industrial Dr NE
62nd St NE	Lakeshore Dr W	63rd Street NE

C. Misdemeanor Violation; Penalty: Any person, party or firm who violates any provision of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be punished pursuant to section 1-4-1 of this code. (Ord. 1979-9, 11-5-1979; amd. Ord. 2017-01, 1-3-2017; Ord. 2019-06, 9-16-2019; Ord. 2022-07, 6-20-2022)

7-1-3: VEHICLES ON WASTEWATER TREATMENT CONTROL DIKE:

A. Definitions: For the purposes of this section, the words and phrases defined in this subsection shall have the meanings herein given them:

ALL-TERRAIN VEHICLE: A motorized flotation tired vehicle of not less than three (3) low pressure tires, but not more than six (6) tires, that is limited in engine displacement of less than eight hundred (800) cubic centimeters and total dry weight less than nine hundred (900) pounds.

CONTROL DIKE: An embankment, ridge, bank, barrier of earth, rock or other materials that encloses or restrains the wastewater of the city of Albertville wastewater treatment facilities or ponds. It includes both inside and outside bank or slope of the control dike and abutting land supporting the control dike.

MOTOR VEHICLE: Every vehicle which is self-propelled and not deriving its power from overhead wires. "Motor vehicle" does not include an electric personal assistive mobility device or a vehicle moved solely by human power.

MOTORCYCLE: Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including motor scooters and bicycles with motor attached, other than those vehicles defined as "motorized bicycles" in this subsection, but excluding a tractor.

MOTORIZED BICYCLE: A bicycle with full operable pedals which may be propelled by human power or a motor, or by both, with a motor of a capacity of less than fifty (50) cubic centimeters piston displacement, and a maximum of two (2) brake horsepower, which is capable of a maximum speed of not more than thirty (30) miles per hour on a flat surface with not more than one percent (1%) grade in any direction when the motor is engaged. A "motorized bicycle" includes an "electric assisted bicycle" as defined by state statute.

RECREATIONAL MOTOR VEHICLE: Trail bikes, amphibious vehicles and similar devices, other than snowmobiles, used at least partially for travel on natural terrain, but not "special mobile equipment" as defined in Minnesota statutes section 168.011, subdivision 22, which is hereby incorporated herein by reference; also including any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including, but not limited to, a motorized bicycle, all-terrain vehicle, motorcycle, hovercraft or motor vehicle licensed for highway operation which is being used for off road recreational purposes. This definition includes "off highway motorcycles" as defined in Minnesota statutes section 84.787, and "all-terrain vehicles" as defined in Minnesota statutes section 84.92.

SNOWMOBILE: A self-propelled vehicle designed for travel on snow or ice and steered by skis or runners. (Ord. 1990-1; amd. 2005 Code)

B. Operating Or Parking On Control Dike Restricted: No person shall drive, operate or park any motor vehicle, all-terrain vehicle, motorized bicycle, motorcycle, recreational vehicle or snowmobile on or over the control dike, except for any such vehicles owned and used by the city for official business or that have received advanced written permission from the city council.

C. No Trespassing Sign: The city administrator shall cause one or more "no trespassing" signs to be posted at or around the perimeter of the control dike. Failure to install or maintain any such sign shall not be a defense to violation of this section. (Ord. 1990-1)

D. Misdemeanor Violation; Penalties: Any person violating any provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-4-1 of this code. (Ord. 1990-1; amd. 2005 Code)

CHAPTER 2

PARKING REGULATIONS

SECTION:

7-2-1: Provisions Additional To State Regulations

7-2-2: Method Of Parking

7-2-3: Parking For Certain Purposes Prohibited

7-2-4: Maximum Time Limit Parking

7-2-5: Parking During Winter Months

7-2-6: Parking Prohibitions On Specific Streets

7-2-7: Towing Illegally Parked Vehicles

7-2-8: Petty Misdemeanor Violation; Penalty

7-2-1: PROVISIONS ADDITIONAL TO STATE REGULATIONS:
The parking restrictions of this chapter are in addition to the regulatory provisions of the state highway regulation traffic act, Minnesota statutes chapter 169, as amended. (Ord. 1989-4)

7-2-2: METHOD OF PARKING:
Every vehicle parked upon any street with a curb, shall be parked parallel to the curb and with the right hand wheels of such vehicle within twelve inches (12") of the curb. On other streets, a vehicle shall be parked to the right of the main traveled portion thereof and parallel thereto, and in such a manner as not to interfere with the free flow of traffic. This shall not apply, however, to any vehicle disabled upon any street, but such vehicle shall be moved to a place of safety, and if such movement is not made, may be impounded in accordance with applicable law or ordinance [1] . (Ord. 1989-4)

Notes

1 1. See chapter 5 of this title.

7-2-3: PARKING FOR CERTAIN PURPOSES PROHIBITED:
No person shall, for camping purposes, leave or park a house trailer, motor home or recreational vehicle on any public street, highway, alley or other right of way thereof, nor shall any person park a vehicle upon the street or roadway for the principal purpose of: (2005 Code)

A. Displaying such vehicle for sale.

B. Washing, greasing or repairing such vehicle, except such repairs as are necessitated by an emergency.

C. Displaying advertising.

D. Selling merchandise from such vehicle, except in a duly established marketplace or when so authorized or licensed under the city ordinances.

E. Storage, or as junk or dead storage, for more than forty eight (48) hours.

F. Storage of camping trailers, utility trailers or any trailer that is not attached to a motor vehicle. (Ord. 1984-4; amd. Ord. 1989-4; Ord. 2019-07, 9-16-2019)

7-2-4: MAXIMUM TIME LIMIT PARKING:
No person shall park a vehicle on any public street, highway or alley for more than forty eight (48) consecutive hours at any time. (Ord. 1989-4)

7-2-5: PARKING DURING WINTER MONTHS:
A. Definition: For the purpose of this section, the word "vehicle" shall mean any device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, including, but not limited to, motor vehicles and trailers.

B. Time Period Parking Is Prohibited: Parking is prohibited on any city street from two o'clock (2:00) A.M. to six o'clock (6:00) A.M. from November 1 to March 31.

C. Parking Prohibitions: No person shall park or leave standing any vehicle upon any street in the city after a snowfall of two inches (2") or more, nor upon any street which is covered or has deposited on it two inches (2") of snow or more, until the snow from any such street has been removed or plowed; except, that parking or leaving standing any vehicle in that part of any street right of way designated as a "parking lot" or "commuter parking area" by the city and posted by appropriate signs shall be permitted. The official depth, for the purpose of this section, shall be determined

by the mayor or any other city official duly designated by resolution of the city council whose decision shall be final and not subject to appeal.

D. Removal By City: In case any vehicles are parked or left standing on the street in violation of this section, said vehicle or vehicles may be removed by or under the direction of any police officer or city employee. Removal of the vehicle by or under the direction of a police officer or city employee shall not prevent prosecution under this section. Within seventy two (72) hours from the time of removal of any vehicle, notice of the removal or impounding, or both, together with the designation of the pound, shall be given by the police officer or city employee to the owner of record of such vehicle. Such notice may be made in person or by telephone, when possible, and if not possible, by letter. (Ord. 2004-12)

7-2-6: PARKING PROHIBITIONS ON SPECIFIC STREETS:

A. Parking Prohibited: It shall be unlawful to park a vehicle adjacent to any portion of a curb which has been painted yellow or upon which no parking signs have been posted. (2005 Code)

B. Time Limit Parking: No person or party shall park or allow to be parked any motor vehicle of any kind for a period of more than two (2) hours in the following described zone: On Main Avenue from its intersection with 57th Street North, northerly along said Main Avenue for a distance of two hundred feet (200'). (Ord. 1979-1, 1-2-1979)

7-2-7: TOWING ILLEGALLY PARKED VEHICLES:

Any vehicles parked in a manner inconsistent with this chapter may be towed and impounded by the city. The owner of any towed vehicle shall pay all towing and storage charges incurred by the city before the vehicle will be released from impound. (Ord. 2000-3, 4-3-2000)

7-2-8: PETTY MISDEMEANOR VIOLATION; PENALTY:

Any person violating any provision of this chapter shall be guilty of a petty misdemeanor and upon conviction thereof, shall be punished pursuant to section 1-4-1 of this code or the traffic fines of Wright County. (Ord. 2017-01, 1-3-2017)

CHAPTER 3

SNOWMOBILES AND RECREATIONAL VEHICLES

SECTION:

7-3-1: Purpose; State Regulations Adopted

7-3-2: Definitions

7-3-3: Snowmobiles

7-3-4: Recreational Vehicles

7-3-5: All-Terrain Vehicles

7-3-6: Violations; Penalties

7-3-7: Motorized Golf Carts

7-3-1: PURPOSE; STATE REGULATIONS ADOPTED:

It is the purpose of this chapter to supplement Minnesota statutes sections 84.81 through 84.88 and chapter 189 with respect to the operation of snowmobiles, and sections 84.787 through 84.805 and sections 84.92 through 84.929 with respect to recreational motor vehicles, which statutes, as now existing or hereafter amended, are adopted by reference and are as much a part of this chapter as if fully set forth herein. (Ord., 1988; amd. Ord. 1997-5, 5-6-1997)

7-3-2: DEFINITIONS:

For the purposes of this chapter, the terms defined herein shall have the following ascribed meanings:

ALL-TERRAIN VEHICLE:	A motorized floatation-tired vehicle on not less than three (3) low pressure tires and not more than six (6) tires. All-Terrain Vehicle includes Class 1 and Class 2 All-Terrain Vehicles as defined below.
Class 1 All-Terrain Vehicle:	Class 1 All-Terrain Vehicle means an All-Terrain Vehicle that has a total width from outside of tire rim to outside of tire rim that is fifty (50) inches or less and a total dry weight of less than nine hundred (900) pounds.
Class 2 All-Terrain Vehicle:	Class 2 All-Terrain Vehicle means an all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim that is greater than fifty (50) inches but not more than sixty-five (65) inches and a total dry weight of nine hundred (900) to one thousand five hundred (1,500) pounds.
MOTORCYCLE:	Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including motor scooters and bicycles with motor attached, other than those vehicles defined as “motorized bicycles” in this section, but excluding a tractor. “Motorized bicycle” includes an “electric assisted bicycle” as defined by state statute.
MOTORIZED BICYCLE:	A bicycle with fully operable pedals which may be propelled by human power or a motor, or by both, with a motor with a capacity of less than fifty (50) cubic centimeters piston displacement, and a maximum of two (2) brake horsepower, which is capable of a maximum speed of not more than thirty (30) miles per hour on a flat surface with not more than one percent (1%) grade in any direction when the motor is engaged.
MOTORIZED GOLF CART:	Motorized golf cart means a vehicle usually three (3) or four (4) wheeled which is self-propelled and is designed to be used to provide transportation on a golf course.
OPERATE:	To ride in or on and control the operation of a snowmobile or recreational motor vehicle.
OPERATOR:	Every person who operates or is in actual physical control of a snowmobile or recreational motor vehicle.

OWNER:	A person, other than a lien holder, having the property in or title to a snowmobile or recreational motor vehicle.
PERSON:	Includes an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not.
RECREATIONAL MOTOR VEHICLE:	Trail bikes, amphibious vehicles and similar devices, other than snowmobiles, used at least partially for travel on natural terrain, but not "special mobile equipment" as defined in Minnesota statutes section 168.011, subdivision 22, which is hereby incorporated herein by reference; also including any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including, but not limited to, a motorized bicycle, all-terrain vehicle, motorcycle, hovercraft or motor vehicle licensed for highway operation which is being used for off road recreational purposes. This definition includes "off highway motorcycles" as defined in Minnesota statutes section 84.787, and "all-terrain vehicles" as defined in Minnesota statutes section 84.92.
RIGHT OF WAY:	The entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purposes.
ROADWAY:	That portion of a highway improved, designed or ordinarily used for roadway purposes.
SNOWMOBILE:	A self-propelled vehicle designed for travel on snow or ice and steered by skis or runners.
STREET:	A public thoroughfare, roadway, alley or trail used for motor vehicular traffic which is not an interstate, trunk, county state aid road or county highway. (Ord., 1988; amd. Ord. 1997-5, 5-6-1997; 2005 Code; Ord. 2021-06, 4-5-2021; Ord. 2022-05, 6-20-2022)

7-3-3: SNOWMOBILES:

A. Operation: The following operating restrictions shall apply to the operation of snowmobiles:

1. Direct Route: Operation of snowmobiles on streets in the city is permitted only in a direct route to/from a designated snowmobile trail.

2. Single File, Right Hand Lane: No person shall operate a snowmobile on the portion of any right of way of any street, except single file, on the most right hand lane when available for traffic or as close as practical to the right hand curb or edge of the roadway, except when passing another vehicle stopped in that lane.

3. Private Property: No person shall operate a snowmobile on the private property of another without lawful authority or consent of the owner.

4. Speed Limit: No person shall operate a snowmobile on streets or roadways at a speed in excess of twenty (20) miles per hour.

5. Sidewalks And Paved Walkways: No person shall operate a snowmobile on public sidewalks, pedestrian paths, or paved walkways within the city. (Ord. 1997-5, 5-6-1997)

6. Hours: No person shall operate a snowmobile within the city during the hours from twelve o'clock (12:00) midnight to seven o'clock (7:00) A.M.

7. Stop And Yield Intersections: No snowmobile shall enter any intersection without making a complete stop. The operator shall then yield the right of way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard if not yielded to.

8. Minors: No person under fourteen (14) years of age shall operate on streets or make a direct crossing of a city street as the operator of a snowmobile. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile on streets as permitted under this chapter and make a direct crossing of such streets only if he has in his immediate possession a valid snowmobile safety certificate issued by the commissioner of natural resources as provided by Minnesota statutes section 84.84. (Ord. 1997-5, 5-6-1997; amd. 2005 Code)

B. Operation Prohibited In City Parks: It shall be illegal to operate a snowmobile or recreational motor vehicle within the boundaries of a city designated park unless on a designated and marked snowmobile trail [1] .

C. Required Equipment: Snowmobiles shall have the following required equipment:

1. Brakes: Brakes adequate to control the movement of and to stop and hold the snowmobile.

2. Mufflers: Standard mufflers which are properly attached and in constant operation and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, bypass, straight pipe or similar device on a snowmobile, and the exhaust system shall not emit or produce a sharp popping or crackling sound. (Ord. 1997-5, 5-6-1997)

Notes

[1] 1. See also subsection 8-3-3B of this code for operation in Four Seasons Park.

7-3-4: RECREATIONAL VEHICLES:

A. All Minnesota safety and required equipment laws apply to all recreational vehicles.

B. All Minnesota state laws regarding prohibited conditions and operations apply to all recreational vehicles.

C. The following are prohibited conditions and operations of recreational motor vehicles within the city:

1. On the private property of another without lawful authority or consent of the owner (or occupant) of such property.

2. On public sidewalks, walkways or trails provided or used for pedestrian travel.

3. On or across park lands or ice skating rinks, whether on lakes or flooded areas, nor shall such vehicles park on such area unless such areas

have been specially designated for such use.

4. On any publicly owned lands and/or frozen waters, including, but not limited to, school grounds, playgrounds, and recreation areas, unless such areas have been specially designated for such use, except as provided in section 7-3-5 of this chapter.

5. While under the influence of alcohol, controlled substances, or combination of both.

6. At a speed greater than reasonable and proper under all the surrounding circumstances.

7. At any place in a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

8. In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons.

9. In any cemetery.

10. In any planting or tree nursery in a manner which damages or destroys growing stock. (Ord., 1988; amd. Ord. 1997-5, 5-6-1997; 2005 Code)

7-3-5: ALL-TERRAIN VEHICLES [1] :
Except as provided in this section, no person shall operate or knowingly permit the operation of an all-terrain vehicle upon any street or highway within the city, including any portion of the right of way. Nothing in this section shall be interpreted to prohibit the operation of an all-terrain vehicle on the outside slope of a trunk, county state aid, or county highway within the city. (Ord., 1988)

Notes

[1] 1. See also subsection 8-3-3B of this code for operation in Four Seasons Park.

7-3-6: VIOLATIONS; PENALTIES:
Every person convicted of a violation of any provision of this chapter shall be subject to section1-4-1 of this code and punished through the fines and penalties established in section 3-1-3 of this code or the traffic fines of Wright County. (Ord. 2017-01, 1-3-2017)

7-3-7: MOTORIZED GOLF CARTS:
A. Operation: The operation of a motorized golf cart or an all-terrain vehicle on any public street is prohibited except as authorized by City approved permit. The following operating restrictions shall apply to the use of Golf Carts and Class 1 and 2 All-Terrain Vehicles:

1. Permit Required: No golf carts or class 1 or 2 all-terrain vehicles may be operated on public streets or property without obtaining a permit from the City. A permit is required for each vehicle and is not transferable between vehicles.

a. A permit application supplied by the City must be submitted for each vehicle and must include the following information:

(1) Date

(2) Name, address, and phone number of applicant.

(3) Copy of applicant's driver's license

(4) Make, model, and VIN or serial number of vehicle.

(5) Proof of insurance including company name, policy number, effective dates, and adequate coverage per section 7-3-7, A-10 of this Code for the vehicle.

(6) Applicant shall demonstrate the vehicle complies with the required equipment requirements of Section 7-3-7 C of this code.

(7) Other information as required by the City

b. Permit Fees: Permit fees shall be assessed for work governed by this Code in accordance with the fee schedule as established in section 3-1-3 of this Code.

c. Permit Term: Permits shall be granted for a period of three (3) years and expire December 31st of the third year.

d. Permit Processing: The application review and issuance of permits shall take approximately two (2) weeks from the date of application.

e. Owner-operator must have a valid permit accompanying the vehicle at all times while operating on city streets and must present it upon request of a law enforcement officer enforcing traffic laws.

2. Single File, Right Hand Lane: No person shall operate a motorized golf cart or class 1 or 2 all-terrain vehicle on the portion of any right of way of any street, except single file, on the most right-hand lane when available for traffic or as close as practical to the right-hand curb or edge of the roadway, except when passing another vehicle stopped in that lane.

3. Private Property: No person shall operate a motorized golf cart or class 1 or 2 all-terrain vehicle on the private property of another without lawful authority or consent of the owner.

4. Speed Limit: The speed limit should apply as follows:

a. No person shall operate a motorized golf cart on streets or roadways at a speed in excess of twenty (20) miles per hour.

b. No person shall operate a class 1 or 2 all-terrain vehicle above the posted speed limit on any given city street or roadway.

5. Sidewalks And Paved Walkways: No person shall operate a motorized golf cart or class 1 or 2 all-terrain vehicle on public sidewalks, pedestrian paths, or paved trails within the city.

6. Times of Operation: No person shall operate a motorized golf cart or class 1 or 2 all-terrain vehicle within the city during between sunset and sunrise without rear-facing brake lights, turn signals, and headlights. They shall not be operated in inclement weather, except during emergency conditions as provided in the ordinance, or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient visibility to clearly see persons and vehicles on the roadway at a distance of five hundred (500) feet.

7. Stop And Yield Intersections: No motorized golf cart or class 1 or 2 all-terrain vehicle shall enter any intersection without making a complete stop. The operator shall then yield the right of way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard if not yielded to.

8. Signaling: Motorized golf carts and class 1 or 2 all-terrain vehicles not equipped with brake lights or turn signals must use appropriate hand signals to signal turns as defined by Minnesota State Statute 169.19 Subd. 8.

9. Operators: Persons at least sixteen (16) years of age and holding a valid driver's license recognized by the State of Minnesota as permitting the operation of motor vehicles in the state are allowed to operate a motorized golf cart or class 1 or 2 all-terrain vehicle on streets within the City of Albertville.

10. Insurance: Motorized golf carts and class 1 or 2 all-terrain vehicles must hold valid Minnesota vehicle insurance through the private market or the Minnesota Automobile Insurance Plan. The applicant must provide evidence of insurance in compliance with the provisions of Minnesota Statute 65B.48, subd.1 concerning insurance coverage for the vehicle when applying for a permit.

11. Crossing: Motorized golf carts and class 1 or 2 all-terrain vehicles shall only be operated on city owned streets and alleys within the boundaries of the city with the following exception:

a. Motorized golf carts and class 1 or 2 all-terrain vehicles may cross any county or state highway intersecting a city owned street.

B. Operation Prohibited in City Parks: It shall be illegal to operate a motorized golf cart or class 1 or 2 all-terrain vehicle within the boundaries of a city designated park.

C. Required Equipment: Motorized golf carts and class 1or 2 all-terrain vehicles shall have the following required equipment:

1. Brakes: Brakes adequate to control the movement of and to stop and hold the motorized golf cart or class 1 or 2 all-terrain vehicle.

2. Mufflers: Standard mufflers which are properly attached and in constant operation and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, bypass, straight pipe or similar device on a motorized golf car or class 1 or 2 all-terrain vehicle, and the exhaust system shall not emit or produce a sharp popping or crackling sound.

3. Rearview Mirror: The motorized golf cart or class 1 or 2 all-terrain vehicle shall be equipped with a rearview mirror.

4. Slowing Moving Vehicle Sign: The motorized golf cart shall be equipped with a slow-moving vehicle sign on the rear of the vehicle as provided for in Minnesota Statues section 169.522, when operated on designated roadways.

D. Violations of is code shall be addressed per Section7-3-6 of this code and may be result in the revocation of the vehicle permit. (Ord. 2021-06, 4-5-2021; amd. Ord. 2022-05, 6-20-2022)

CHAPTER 4

ROLLERBLADES, SKATEBOARDS AND SCOOTERS

SECTION:

7-4-1: Definitions

7-4-2: Prohibited Areas

7-4-3: Observation Of Rules Of The Road

7-4-4: Petty Misdemeanor Violation; Property Confiscated

7-4-1: DEFINITIONS:
The following words and terms, whenever they occur in this chapter, are defined as follows:

CENTRAL BUSINESS DISTRICT: Any area of the city within a B-3 (highway business) or B-4 (regional business) zoning district.

OPERATE: To ride on or control the operation of a skateboard, rollerskates/blades, or scooter.

OPERATOR: Every person who operates or is in actual physical control of a skateboard, rollerskates/blades, or scooter.

ROLLERSKATES/BLADES: A shoe with wheels attached or a device with wheels which is designed to be attached to a shoe.

SCOOTER: A foot operated vehicle consisting of a narrow board mounted between two (2) wheels, tandem, with an upright steering handle attached to the front wheel.

SKATEBOARD: A wheeled device designed to transport a rider in a standing position, which device is not otherwise secured to the rider's feet or shoes. (Ord. 1996-13, 7-1-1996)

7-4-2: PROHIBITED AREAS:
No person shall ride or use a skateboard, rollerskates/blades, or scooter:

A. On any public sidewalk, street, or any public parking lot situated in the highway commercial district, general business district or PUD (commercial use) in any careless, reckless, or negligent manner so as to endanger, or be likely to endanger, the safety of any person or property of any other person, or

B. On any other public or private property of another without the express permission to do so by the owner or occupant of said property. (Ord. 1996-13, 7-1-1996)

C. On any park facility other than sidewalks, trails, parking lots and other designated areas.

D. On the grounds of city hall, fire hall, public works facility or community center. (2005 Code)

7-4-3: OBSERVATION OF RULES OF THE ROAD:
A. Yield Right Of Way: The operator of a skateboard, rollerskates/blades or scooter emerging from any alley, driveway, or building, upon approaching a sidewalk or the sidewalk area extending across any alleyway, shall yield the right of way to all pedestrians approaching the sidewalk or sidewalk area and, upon entering the roadway, shall yield the right of way to all vehicles approaching on the roadway.

B. Clinging To Vehicles Prohibited: No person operating a skateboard, rollerskates/blades, or scooter shall attach the same or the person or the operator to any vehicle upon a roadway.

C. Ride To Right: Every person operating a skateboard, rollerskates/blades, or scooter upon a roadway shall ride as close as possible to the right hand curb or edge of the roadway. (Ord. 1996-13, 7-1-1996)

D. Hours: No person shall use a skateboard, rollerskates/blades, or scooter upon a public street, sidewalk, or other roadway after sunset or before sunrise, and said person shall be in compliance with any ordinance or law applying to curfews [1]. (Ord. 1996-13, 7-1-1996; amd. 2005 Code)

Notes

1 1. See section 6-4-1 of this code.

7-4-4: PETTY MISDEMEANOR VIOLATION; PROPERTY CONFISCATED:
Any person who violates any provision of this chapter shall be guilty of a petty misdemeanor and upon conviction thereof, shall be punished pursuant to section 1-4-1 of this code. In addition, any peace officer who observes any person violating any provisions of this chapter is authorized to seize the offender's rollerskates/blades, skateboard, or scooter and to hold same at the county sheriff's department. In the event of such seizure, the offender, if an adult, may secure the return of the article seized after twenty four (24) hours have elapsed since the seizure. In the case of a minor, the article seized shall be returned only to the parent or guardian of such minor offender after twenty four (24) hours have elapsed since the seizure. (Ord. 2017-01, 1-3-2017)

CHAPTER 5

ABANDONED MOTOR VEHICLES

SECTION:

7-5-1: Definitions

7-5-2: Scope

7-5-3: Authority To Impound

7-5-4: Notice Of Impoundment

7-5-5: Reclamation Of Impounded Vehicle

7-5-6: Disposition Of Unclaimed Vehicles; Proceeds

7-5-7: Misdemeanor Violation; Penalty

7-5-1: DEFINITIONS:
ABANDONED VEHICLE: A. A motor vehicle, as defined in Minnesota statutes section 169.01, that:

1. Has remained illegally for a period of more than forty eight (48) hours on any public property, or controlled by a unit of government for more than four (4) hours on that property when it is properly posted; or on private property for a period of time, as determined under Minnesota statutes section 168B.04, subdivision 2, without the consent of the person in control of the property.

2. Lacks vital component parts or is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

B. A classic car or pioneer car, as defined in Minnesota statutes section 168.10, is not considered an "abandoned vehicle".

C. Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with Minnesota statutes section 161.242 or that are licensed and maintained in accordance with local laws and zoning regulations are not considered abandoned.

D. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ, or court order is in effect.

JUNK VEHICLE: A vehicle that is three (3) years old or older; is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission; is apparently inoperable; does not have a valid, current registration plate; and has an approximate fair market value equal to the approximate value of the scrap in it.

VITAL COMPONENT PARTS: Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train, and wheels. (2005 Code)

7-5-2: SCOPE:
The provisions of this chapter shall apply to abandoned motor vehicles. (2005 Code)

7-5-3: AUTHORITY TO IMPOUND:
The city shall take into custody and impound any abandoned motor vehicles. (2005 Code)

7-5-4: NOTICE OF IMPOUNDMENT:
A. Initial Notice:

1. When an abandoned motor vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within ten (10) days. The notice shall: a) set forth the date and place of the taking, the year, make, model, and serial number of the impounded vehicle if such information can be reasonably obtained and the place where the vehicle is being held; b) inform the owner and any lien holders of their right to reclaim the vehicle under section 7-5-5 of this chapter; and c) state that failure of the owner or lien holders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under Minnesota statutes section 168B.051, subdivision 1 or 2, shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents at a public auction pursuant to section 7-5-6 of this chapter.

2. The notice shall be sent by United States mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record.

3. The city shall make this information available to the impound lot operator for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the newspaper of general circulation in the area from where the motor vehicle was towed or abandoned. Published notices may be grouped together for convenience and economy.

B. Second Notice: If an unauthorized vehicle remains unclaimed after thirty (30) days from the date the notice was sent under this section, a

second notice shall be sent certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lien holders of record. (2005 Code)

7-5-5: RECLAMATION OF IMPOUNDED VEHICLE:

A. The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the city or impound lot operator taking it into custody, upon payment of all towing and storage charges resulting from taking the vehicle into custody within fifteen (15) or forty five (45) days, as applicable under Minnesota statutes section 168B.051, subdivision 1 or 2, after the date of the notice required by section 7-5-4 of this chapter.

B. Nothing in section 7-5-3 or 7-5-4 of this chapter shall be construed to impair any lien of a garage keeper under the laws of the state, or the right of a lien holder to foreclose. For the purposes of this section, "garage keeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles. (2005 Code)

7-5-6: DISPOSITION OF UNCLAIMED VEHICLES; PROCEEDS:

A. Disposition:

1. An abandoned motor vehicle and contents taken into custody and not reclaimed under section7-5-5 of this chapter may be disposed of or sold at public auction two (2) weeks following published notice. The purchaser shall be given a receipt in a form prescribed by the registrar of motor vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

2. Abandoned or junk vehicles not sold pursuant to subsection A1 of this section shall be disposed of in accordance with Minnesota statutes section 168B.09, subdivision 1.

B. Proceeds Of Sales: From the proceeds of a sale of an abandoned vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in the city treasury. (2005 Code)

7-5-7: MISDEMEANOR VIOLATION; PENALTY:

Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of such property, is guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided in section 1-4-1 of this code. (2005 Code)

TITLE 8

PUBLIC WAYS AND PROPERTY

CHAPTER 1

STREETS, SIDEWALKS AND PUBLIC WAYS

SECTION:

8-1-1: Mailbox And Paper Box Locations

8-1-2: Snow And Ice Control On Sidewalks And Trails

8-1-1: MAILBOX AND PAPER BOX LOCATIONS:

A. Short Title: The title of this section is *LOCATION OF MAIL AND PAPER BOXES*.

B. Definitions: When used in this section, the following words and terms shall have the meanings ascribed to them in this subsection:

BOXES: All mailboxes, paper boxes and advertising boxes wherein either mail is distributed, newspaper and magazines are distributed or advertising placed for the use of residents of the city.

RURAL FARM AREAS: Those homes located on premises within the city limits with at least five (5) acres or more.

C. Streets Where Boxes Allowed: Boxes shall be allowed to be placed on the boulevard of all city streets, except those streets where the curb reaches the sidewalk and there is no boulevard.

D. Location Of Boxes On Streets:

1. All boxes shall be located on one side of the street, in a line of travel set by the post office. Boxes shall be located in the boulevard, a prescribed distance away from the curbing to allow easy access by the mail carrier.

2. Where there is more than one house on a city block, all boxes in the city block shall be located in a cluster. Where there are more than ten (10) houses in a block, two (2) equal clusters will be allowed. Paper boxes and advertising boxes must be located in the same cluster as mailboxes.

3. The cluster or clusters shall be centrally located in the middle of the homes to be served.

E. Exceptions: Excepted from the requirements of this section with respect to clustering shall be all rural farm areas of the city. (Ord. 1982-2, 8-30-1982)

8-1-2: SNOW AND ICE CONTROL ON SIDEWALKS AND TRAILS[1]:

A. Priority Areas: The city prioritizes its snow and ice removal efforts as follows:

1. Priority 1: Snow and ice control from curb to curb on all city streets.

2. Priority 2: Sidewalks and trails as identified in the snow plowing and ice control policy of the city.

B. Disclaimer: The city will perform the snow and ice removal in the order of the priorities listed in subsection B of this section. The city will attempt, but does not guarantee, completion of all snow and ice control procedures after each snowfall, but because of time, equipment and budgetary constraints, at no time does the city council guarantee that sidewalks and bituminous trails will be completely free and clear of snow and ice. (Ord. 2002-2, 1-22-2002; amd. 2005 Code)

Notes

1 1. See also subsection 10-4-4G of this code; see subsection 1000.21C, appendix A, of this code for snow removal near fire hydrants.

CHAPTER 2

RIGHTS OF WAY MANAGEMENT

SECTION:

8-2-1: Purpose And Intent

8-2-2: Interpretation

8-2-3: Election To Manage Public Rights Of Way

8-2-4: Definitions

8-2-5: Administrative Officials

8-2-6: Registration And Right Of Way Occupancy Requirements

8-2-7: Reporting Obligations

8-2-8: Permit Requirements

8-2-9: Joint Applications

8-2-10: Mapping Data

8-2-11: Schedule Of Estimates Of Registration And Permit Fees And Charges

8-2-12: Other Obligations

8-2-13: Installation And Restoration Requirements; Damages

8-2-14: Location And Relocation Of Facilities

8-2-15: Inspections

8-2-16: Work Commenced Without Permit

8-2-17: Vacation Of Right Of Way

8-2-18: Abandoned, Unusable Facilities

8-2-19: Appeals

8-2-20: Indemnification And Liability

8-2-1: PURPOSE AND INTENT:

A. Purpose: To provide for the health, safety and welfare of citizens of the city, and to ensure the integrity of city streets and the appropriate use of the rights of way, the city strives to keep its rights of way in a state of good repair and free from unnecessary encumbrances. Accordingly, the city hereby enacts this chapter relating to right of way permits and administration.

B. Intent: This chapter imposes reasonable regulations on the placement and maintenance of facilities and equipment currently within its rights of way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights of way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out of pocket and projected costs from persons using the public rights of way. (Ord. 2004-13)

8-2-2: INTERPRETATION:

A. Compliance With State Laws: This chapter shall be interpreted consistently with 1997 session laws, chapter 123, substantially codified in Minnesota statutes sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "act") and the other laws governing applicable rights of the city and users of the rights of way. This chapter shall also be interpreted consistent with Minnesota rules 7819.0050 to 7819.9950, where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota rules, that interpretation most consistent with the act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

B. Severability: If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein. (Ord. 2004-13)

8-2-3: ELECTION TO MANAGE PUBLIC RIGHTS OF WAY:

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant to Minnesota statutes section 237.163, subdivision 2(b), to manage rights of way within its jurisdiction. (Ord. 2004-13)

8-2-4: DEFINITIONS:

The following definitions apply in this chapter. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms whether or not capitalized.

ABANDONED FACILITY: A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

APPLICANT: Any person requesting permission to excavate or obstruct a right-of-way.

CITY: The City of Albertville, Minnesota. For purposes of section, "City" means its elected officials, officers, employees and agents.

COLLOCATE OR COLLOCATION: To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the City or other governmental unit.

COMMISSION: The State Public Utilities Commission.

CONGESTED RIGHT-OF-WAY: A crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes section 216D.04 subdivision 3, over a continuous length in excess of five hundred feet (500').

CONSTRUCTION PERFORMANCE BOND: Any of the following forms of security provided at permittee's option:

A. Individual project bond.

B. Cash deposit.

C. Security of a form listed or approved under Minnesota Statutes section 15.73, subdivision 3.

D. Letter of credit, in a form acceptable to the City.

E. Self-insurance, in a form acceptable to the City.

F. A blanket bond for projects within the City, or other form of construction bond, for a time specified and in a form acceptable to the City.

DEGRADATION: A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

DEGRADATION COST: Subject to Minnesota Rules 7819.1100, means the cost to achieve a level of restoration as determined by the City at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

DEGRADATION FEE: The estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

DELAY PENALTY: The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

DEPARTMENT: The Department of Public Works of the City.

DEPARTMENT INSPECTOR: Any person authorized by the City to carry out inspections related to the provisions of this chapter.

DIRECTOR: The Director of the Department of Public Works of the City, or her or his designee.

EMERGENCY: A condition that: a) poses a danger to life or health, or of a significant loss of property; or b) requires immediate repair or replacement of facilities in order to restore service to a customer.

EQUIPMENT: Any tangible asset used to install, repair, or maintain facilities in any right-of-way.

EXCAVATE: To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

EXCAVATION PERMIT: The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An "excavation permit" allows the holder to excavate that part of the right-of-way described in such permit.

EXCAVATION PERMIT FEE: Money paid to the City by an applicant to cover the costs as provided in section 8-1-3 of this Code.

FACILITY OR FACILITIES: Any tangible asset in the right-of-way required to provide utility service.

FIVE YEAR PROJECT PLAN: Shows projects adopted by the City for construction within the next five (5) years.

HIGH DENSITY CORRIDOR: A designated portion of the public right- of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

HOLE: An excavation in the pavement, with the excavation having a length less than the width of the pavement.

LOCAL REPRESENTATIVE: A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

MANAGEMENT COSTS: The actual costs the City incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of- way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the City including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the City, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, chapter 123; Minnesota Statutes sections 237.162 or 237.163; or any ordinance enacted under those sections, or the City fees and costs related to appeals taken pursuant to section 8-2-19 of this chapter.

OBSTRUCT: To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right- of-way.

OBSTRUCTION PERMIT: The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

OBSTRUCTION PERMIT FEE: Money paid to the City by a permittee to cover the costs as provided in section 8-1-3 of this Code.

PATCH OR PATCHING: A method of pavement replacement that is temporary in nature. A patch consists of: a) the compaction of the subbase and aggregate base; and b) the replacement, in kind, of the existing pavement for a minimum of two feet (2') beyond the edges of the excavation in all directions. A "patch" is considered full restoration only when the pavement is included in the City's five year project plan.

PAVEMENT: Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bitumen, concrete, aggregate, or gravel.

PERMIT: Has the meaning given "right-of-way permit" in Minnesota Statutes section 237.162.

PERMITTEE: Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this chapter.

PERSON: An individual or entity subject to the laws and rules of the State, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

PROBATION: The status of a person that has not complied with the conditions of this chapter.

PROBATIONARY PERIOD: One year from the date that a person has been notified in writing that he has been put on probation.

PUBLIC RIGHT-OF-WAY OR RIGHT-OF-WAY: The area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the City. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

REGISTRANT: Any person who: a) has or seeks to have its equipment or facilities located in any right-of-way; or b) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

RESTORATION COST: The amount of money paid to the City by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

RESTORE OR RESTORATION: The process by which an excavated right- of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

RIGHT-OF-WAY PERMIT: Either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

RIGHT-OF-WAY USER: A. A telecommunications right-of-way user, as defined by Minnesota Statutes section 237.162, subdivision 4; or

B. A person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

SERVICE OR UTILITY SERVICE: Includes:

A. Those services provided by a public utility, as defined in Minnesota Statutes section 216B.02, subdivisions 4 and 6;

B. Services of a telecommunications right-of-way user, including transporting of voice or data information;

C. Services of a cable communications systems, as defined in Minnesota Statutes chapter 238;

D. Natural gas or electric energy or telecommunications services provided by the City;

E. Services provided by a cooperative electric association organized under Minnesota Statutes, chapter 308A; and

F. Water, sewer, steam, cooling or heating services.

SMALL WIRELESS FACILITY: A wireless facility that meets both of the following qualifications:

A. Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or could fit within such an enclosure; and

B. All other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than twenty eight (28) cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

SUPPLEMENTARY APPLICATION: An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

TELECOMMUNICATIONS RIGHT-OF-WAY USER: A person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minnesota Statutes chapter 238, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minnesota Statutes section 216B.02, a municipality, a municipal gas or power agency organized under Minnesota Statutes chapters 453 and 453A, or a cooperative electric association organized under Minnesota Statutes chapter 308A, are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

TEMPORARY SURFACE: The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the City's two year plan, in which case, it is considered full restoration.

TRENCH: An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

TWO YEAR PROJECT PLAN: Shows projects adopted by the City for construction within the next two (2) years.

UTILITY POLE: A pole that is used in whole or in part to facilitate telecommunications or electric service.

WIRELESS FACILITY: Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber- optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

WIRELESS SERVICE: Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under title VI of the Communications Act of 1934, as amended, including cable service.

WIRELESS SUPPORT STRUCTURE: A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the City. (Ord. 2004-13; amd. Ord. 2017-12, 12-4-2017)

8-2-5: ADMINISTRATIVE OFFICIALS:

A. Director Of Public Works Department: The Director is the principal City official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The Director may delegate any or all of the duties hereunder.

B. Utility Coordination Committee: The City may create an advisory Utility Coordination Committee. Participation on the committee is voluntary. It will be composed of any registrants that wish to assist the City in obtaining information and by making recommendations regarding use of the rights-of-way, and to improve the process of performing construction work therein. The City may determine the size of such committee and shall appoint members from a list of registrants that have expressed a desire to assist the City. (Ord. 2004-13)

8-2-6: REGISTRATION AND RIGHT-OF-WAY OCCUPANCY REQUIREMENTS:

A. Registration Required; Exceptions:

1. Each person who occupies, uses, or seeks to occupy or use the right-of-way or place any equipment or facilities in or on the right-of-way,

including persons with installation and maintenance responsibilities, by lease, sublease or assignment, must register with the City. Registration will consist of providing application information and paying a registration fee.

2. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the City.

3. Nothing herein shall be construed to repeal or amend the provisions of a City ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right- of-way between their property and the street curb. However, nothing herein relieves a person from complying with the provisions of Minnesota Statutes chapter 216D, Gopher One Call Law.

B. Information Required: The information provided to the City at the time of registration shall include, but not be limited to:

1. Each registrant's name, Gopher One Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

2. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

3. a. A certificate of insurance or self-insurance:

(1) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self-insurance acceptable to the City.

(2) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the: a) use and occupancy of the right-of- way by the registrant, its officers, agents, employees and permittees; and b) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property.

(3) Naming the City as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages.

(4) Requiring that the City be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term.

(5) Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the City in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this chapter.

b. The City may require a copy of the actual insurance policies.

4. If the person is a corporation, a copy of the certificate required to be filed under Minnesota Statutes section 300.06 as recorded and certified to by the Secretary of State. (Ord. 2004-13)

5. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other authorization or approval from the applicable State or Federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other State or Federal agency. (Ord. 2017-12, 12-4-2017)

C. Notice Of Changes: The registrant shall keep all of the information listed above current at all times by providing to the City information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change. (Ord. 2004-13)

8-2-7: REPORTING OBLIGATIONS:

A. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the City. Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way. The plan shall include, but not be limited to, the following information:

1. The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next year project"); and

2. To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five (5) years following the next calendar year (in this section, a "5 year project").

B. By January 1 of each year, the City will have available for inspection in the City office a composite list of all projects of which the City has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

C. Thereafter, by February 1, each registrant may change any project in its list of next year projects, and must notify the City and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next year project of another registrant listed by the other registrant.

D. Notwithstanding the foregoing, the City will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the City if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

E. The term "project", in this section, shall include both next year projects and five (5) year projects. (Ord. 2004-13)

8-2-8: PERMIT REQUIREMENTS:

A. Permits Required:

1. Generally:

a. Except as otherwise provided in this Code, no person shall encumber, excavate, or obstruct any street, alley, lane, drainageway, gutter, sidewalk, trail or other public place within the corporate limits of the City by placing therein or thereon any building, structure, building or construction materials, underground irrigation system, rock, sand, soil, wood, trash receptacle, construction debris, storage receptacle, or other impediment, material or substance whatsoever, or by making any excavation or opening therein, without first having obtained permission in writing from the City to do so. Unless otherwise prohibited by the City, a person may load or unload materials from a vehicle parked in the right-of-way for a period not exceeding two (2) hours; provided, that the vehicle is parked against the curb in such a manner that two (2) vehicles are able to safely pass that parked vehicle at the same time.

b. No person or entity shall install or connect a driveway to a City street located within a public right-of-way or easement without first obtaining a driveway permit from the City. No such permit shall be required for: 1) construction pursuant to a valid building permit for a new residential structure on a vacant lot; and 2) commercial and industrial properties with driveways constructed pursuant to a site plan approved by the City Council.

c. No person or entity shall install or connect a nonpublic sidewalk to a public sidewalk or City street located within a public right-of-way or easement without first obtaining a permit to do so from the City.

d. Except as otherwise provided in this Code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the City to do so.

2. Excavation Permit: An excavation permit is required by a registrant to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

3. Obstruction Permit: An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

4. Small Wireless Facility Permit: A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

B. Application For Permit: Application for a permit is made to the City. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

1. Registration with the City pursuant to this chapter;

2. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.

3. Payment of money due the City for:

a. Permit fees, estimated restoration costs and other management costs.

b. Prior obstructions or excavations.

c. Any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the City.

d. Franchise fees or other charges, if applicable.

4. Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least one hundred ten percent (110%) of the amount owing.

5. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the City deems the existing construction performance bond inadequate under applicable standards.

C. Permit Fees And Charges:

1. Fees Established:

a. Excavation Permit Fee: The City shall establish an excavation permit fee in an amount sufficient to recover the following costs:

(1) The City management costs.

(2) Degradation costs, if applicable.

b. Obstruction Permit Fee: The City shall establish the obstruction permit fee which shall be in an amount sufficient to recover the City management costs.

c. Small Wireless Facility Permit Fee: The City shall impose a small wireless facility permit fee in an amount sufficient to recover:

(1) Management costs, and;

(2) City engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

2. Payment Of Fees: No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The City may allow the applicant to pay such fees within thirty (30) days of billing.

3. Fees Nonrefundable: Permit fees that were paid for a permit that the City has revoked for a breach, as stated in subsection K of this section are not refundable.

4. Charges To Franchisees: Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

D. Issuance Of Permit: If the applicant has satisfied the requirements of this chapter, the City shall issue a permit.

1. Conditions: The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, State and Federal laws, including but not limited to Minnesota Statutes sections 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minnesota Rules chapter 7560.

2. Small Wireless Facility Conditions: In addition to the conditions described in subsection D1 of this section, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

a. A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.

b. No new wireless support structure installed within the right- of-way shall exceed fifty feet (50') in height without the City's written authorization, provided that the City may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding fifty feet (50') in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.

c. No wireless facility may extend more than ten feet (10') above its wireless support structure.

d. Where an applicant proposes to install a new wireless support structure in the right-of-way, the City may impose separation requirements

between such structure and any existing wireless support structure or other facilities in and around the right-of- way.

e. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the City may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.

f. Where an applicant proposes to replace a wireless support structure, the City may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

E. Denial Or Revocation Of Permit:

1. Reasons For Denial: The City may deny or revoke a permit for failure to meet the requirements and conditions of this chapter or if the City determines that the denial or revocation is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

2. Procedural Requirements: The denial or revocation of a permit must be made in writing and must document the basis for the denial or revocation. The City must notify the applicant or right-of-way user in writing within three (3) business days of the decision to deny or revoke a permit. If an application is denied or revoked, the right-of-way user may address the reasons for denial or revocation identified by the City and resubmit its application. If the application is resubmitted within thirty (30) days of receipt of the notice of denial or revocation, no additional application fee shall be imposed. The City must approve or deny the resubmitted application within thirty (30) days after submission.

F. Supplementary Notification: If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the City of the accurate information as soon as this information is known.

G. Extension Of Time Limits: No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless:

1. Such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and

2. A new permit or permit extension is granted.

H. Delay Penalty: In accordance with Minnesota Rules 7819.1000, subdivision 3, and notwithstanding subsection G of this section, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

I. Display Of Permit: Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

J. Supplementary Applications:

1. Limitation On Area: A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must, before working in that greater area:

a. Make application for a permit extension and pay any additional fees required thereby; and

b. Be granted a new permit or permit extension.

2. Limitation On Dates: A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, such permittee must apply for a new permit for the additional time needed, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

K. Revocation Of Permit:

1. Authority; Substantial Breach: The City reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

a. The violation of any material provision of the right-of-way permit;

b. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;

c. Any material misrepresentation of fact in the application for a right-of-way permit;

d. The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or

e. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to section 8-2-15 of this chapter.

2. Notice Of Breach: If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the City shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

3. Response To Notice: Within twenty four (24) hours of receiving notification of the breach, permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. Permittee's failure to so contact the City, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the City, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one full year.

4. Probation:

a. From time to time, the City may establish a list of conditions of the permit which, if breached, will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on rights-of-way grossly outside of the permit authorization.

b. If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked, and permittee will not be allowed further permits for one full year, except for emergency repairs.

5. Reimbursement Of City Costs: If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including

restoration costs and the costs of collection and reasonable attorney fees incurred in connection with such revocation.

L. Small Wireless Facility Agreement: A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the City, or any other City asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the City. The standard collocation agreement may require payment of the following as established in section 3-1-3 of the city code:

1. Yearly rent to collocate on the City structure.

2. Per year fee for maintenance associated with the collocation.

3. A monthly fee for electrical service as follows:

a. Fee per radio node less than or equal to one hundred (100) maximum watts;

b. Fee per radio node over one hundred (100) maximum watts; or

c. The actual costs of electricity, if the actual costs exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the City and applicant.

M. Action On Small Wireless Facility Permit Applications:

1. Deadline For Action: The City shall approve or deny a small wireless facility permit application within ninety (90) days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the City fails to approve or deny the application within the review periods established in this section.

2. Consolidated Applications: An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to fifteen (15) small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:

a. Are located within a two-mile radius;

b. Consist of substantially similar equipment; and

c. Are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the City may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

3. Tolling Of Deadline: The 90-day deadline for action on a small wireless facility permit application may be tolled if:

a. The City receives applications from one or more applicants seeking approval of permits for more than thirty (30) small wireless facilities within a seven-day period. In such case, the City may extend the deadline for all such applications by thirty (30) days by informing the affected applicants in writing of such extension.

b. The applicant fails to submit all required documents or information and the City provides written notice of incompleteness to the applicant within thirty (30) days of receipt of the application. Upon submission of additional documents or information, the City shall have ten (10) days to notify the applicant in writing of any still-missing information.

c. The City and a small wireless facility applicant agree in writing to toll the review period. (Ord. 2004-13; amd. Ord. 2017-12, 12-4-2017; Ord. 2019-13, 12-16-2019)

8-2-9: JOINT APPLICATIONS:

A. Joint Application Authorized: Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

B. Shared Fees: Registrants who apply for permits for the same obstruction or excavation, which the City does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

C. With City Projects: Registrants who join in a scheduled obstruction or excavation performed by the City, whether or not it is a joint application by two (2) or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required. (Ord. 2004-13)

8-2-10: MAPPING DATA:

Each registrant and permittee shall provide mapping information required by the City in accordance with Minnesota Rules 7819.4000 and 7819.4100. (Ord. 2004-13)

8-2-11: SCHEDULE OF ESTIMATES OF REGISTRATION AND PERMIT FEES AND CHARGES:

Fees and charges for right-of-way permits including registration fees, excavation permit fees (hole, emergency hole, trench, testing results review and mapping), obstruction permit fees, small wireless facility permit fees, permit extension fees, and delay penalty fees shall be as established in section 3-1-3 of this Code. Fees shall be based on an hourly rate and estimated by the City Engineer based on project size and complexity. (Ord. 2017-01, 1-3-2017; amd. Ord. 2019-13, 12-16-2019)

8-2-12: OTHER OBLIGATIONS:

A. Compliance With Other Laws: Obtaining a right-of-way permit does not relieve permittee of his duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, State and Federal laws, including Minnesota Statutes sections 216D.01 to 216D.01.09 (Gopher One Call Excavation Notice System). A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to the permit, regardless of who does the work.

B. Prohibited Work: Except in an emergency, and with the approval of the City, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

C. Interference With Right-Of-Way:

1. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with.

2. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations.

3. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit. (Ord. 2004-13)

8-2-13: INSTALLATION AND RESTORATION REQUIREMENTS; DAMAGES:

A. Compliance With Laws: The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, insofar as they are not inconsistent with Minnesota Statutes sections 237.162 and 237.163.

B. Timing: The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under section 8-2-12 of this chapter.

C. Standards: The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the City and shall comply with Minnesota Rules 7819.1100.

D. Patching And Restoration: Permittee shall patch his own work. The City may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

1. City Restoration: If the City restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with correcting the defective work.

2. Permittee Restoration: If the permittee restores the right-of- way itself, it shall, at the time of application for an excavation permit, post a construction performance bond in accordance with the provisions of Minnesota Rules 7819.3000.

3. Degradation Fee In Lieu Of Restoration: In lieu of right-of- way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching, and the degradation fee shall not include the cost to accomplish these responsibilities.

E. Duty To Correct Defects: The permittee shall correct defects in patching or restoration performed by permittee or its agents. Permittee, upon notification from the City, shall correct all restoration work to the extent necessary, using the method required by the City. Said work shall be completed within five (5) calendar days of the receipt of the notice from the City, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under section 8-2-12 of this chapter.

F. Failure To Restore: If the permittee fails to restore the right-of-way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City, at its option, may do such work. In that event, the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the City may exercise its rights under the construction performance bond.

G. Damage To Rights-Of-Way:

1. Notice Of Damage: When any damage, destruction, obstruction or encumbrance of any kind occurs or is put, placed, or left in the right-of-way, including streets, alleys, lanes, curbs, ditches, gutters, sidewalks, trails, or other public place, the City shall attempt to notify the person who damaged, destroyed, put, placed, or left such obstruction or encumbrance as well as the owner of the abutting property, if he is not the same person, to remove the obstruction or encumbrance or repair the damage or destruction within a specified amount of time.

2. Failure To Comply: If such person fails or refuses to remove such obstruction or encumbrance within the specified amount of time, the City may: a) issue an administrative citation and impose a fine as a nuisance pursuant to the procedures set forth in title 1, chapter 6 of this Code; and/or b) have such obstruction or encumbrance removed by Municipal employees or contractors, in which case, the City shall make an itemized account of any expenses incurred in or by reason of such removal.

3. Costs: The City may recover from the person who damaged, destroyed, put, placed, or left such obstruction or encumbrance, as well as any person who caused such actions to occur, all such expenses incurred by the City by sending an invoice, by Council order, or by any other lawful means, including a civil suit. All invoices sent pursuant to this subsection shall be paid within thirty (30) days of mailing of such invoice. Any expenses incurred by the City but not otherwise recovered may be recovered by special assessment of property located within the City which is owned by the person who damaged, destroyed, put, placed, or left such obstruction or encumbrance in the right-of-way or who caused such actions to occur, said assessment to be pursuant to the procedure set forth in title 1, chapter 6 of this Code. (Ord. 2004-13)

8-2-14: LOCATION AND RELOCATION OF FACILITIES:

A. Compliance With Laws: Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

1. Interference: Any registrant shall promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of- way when it is necessary to prevent interference in connection with: a) a present or future local government use of the right- of-way for a public project; b) the public health or safety; or c) the safety and convenience of travel within the right-of-way. (Ord. 2010-004, 8-16-2010)

2. Undergrounding: Unless otherwise agreed in a franchise or other agreement between the applicable right-of-way user and the City, all data and power wires and leads to wireless facilities and wireless support structures in the right-of-way must be located and maintained underground. (Ord. 2017-12, 12-4-2017)

B. Corridors:

1. The City may assign specific areas within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

2. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City shall, no later than the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

C. Nuisance Conditions: One year after the effective date hereof, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a usable condition.

D. Limitation Of Space: To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive, to the extent possible, to accommodate all existing and potential users of the right of way, but shall be guided primarily by considerations of the public interest, the public need for the particular utility service, the condition of the right of way, the time of year with respect to essential utilities, the

protection of existing facilities in the right of way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

E. Preexcavation Facilities Location: In addition to complying with the requirements of Minnesota statutes sections 216D.01 to 216D.09 (one call excavation notice system), before the start date of any right of way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty inches (20") below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

F. Damage To Other Facilities: When the city does work in the right of way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right of way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities. (Ord. 2004-13)

8-2-15: INSPECTIONS:

A. Notice Of Completion: When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota rules 7819.1300.

B. Site Inspection: Permittee shall make the work site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

C. Authority Of Director:

1. At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well being of the public.

2. The director may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to subsection 8-2-8K of this chapter. (Ord. 2004-13)

8-2-16: WORK COMMENCED WITHOUT PERMIT:

A. Emergency Situations:

1. Each registrant shall immediately notify the director of any event regarding his facilities which it considers to be an emergency, and the registrant may proceed to take whatever actions are necessary to respond to the emergency.

2. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions taken in response to the emergency.

3. If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

B. Nonemergency Situations:

1. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right of way must subsequently obtain a permit, and as a penalty, pay double the normal fee for said permit, pay double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right of way and comply with all of the requirements of this chapter.

2. Any person who damages or destroys public facilities located in the right of way or other public easement, including streets, alleys, lanes, curbs, ditches, gutters, sidewalks, trails, sanitary and/or storm sewers, wetlands, water mains, streetlights and poles, or other publicly owned property, or causes such actions to occur, shall be liable for the costs of repair and/or replacement resulting from such damage or destruction. (Ord. 2004-13)

8-2-17: VACATION OF RIGHT OF WAY:

If the city vacates a right of way which contains the facilities of a registrant, the registrant's rights in the vacated right of way are governed by Minnesota rules 7819.3200. (Ord. 2004-13)

8-2-18: ABANDONED, UNUSABLE FACILITIES:

A. Discontinued Operations: A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right of way under this chapter have been lawfully assumed by another registrant.

B. Removal: Any registrant who has abandoned facilities in any right of way shall remove said facilities from that right of way if required in conjunction with other right of way repair, excavation, or construction, unless this requirement is waived by the city. (Ord. 2004-13)

8-2-19: APPEALS:

A right of way user that: a) has been denied registration; b) has been denied a permit; c) has had a permit revoked; or d) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting. A decision by the city council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision. (Ord. 2004-13)

8-2-20: INDEMNIFICATION AND LIABILITY:

By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota rules 7819.1250. (Ord. 2004-13)

CHAPTER 3

CITY PARKS

SECTION:

8-3-1: Definition

8-3-2: Regulations For All Parks

8-3-3: Use Of Certain Vehicles And Devices In Four Seasons Park

8-3-4: Unlawful Acts

8-3-5: Misdemeanor Violation; Penalties

8-3-1: DEFINITION:
For the purpose of this chapter, "parks" shall mean a park, playground, swimming pool, trail, nature area, recreation center or any other areas in the city of Albertville ("city") owned, leased, used or controlled, wholly or in part, by the city for such purposes as are designated by the council as and for park use. (Ord. 1989-15, 10-2-1989)

8-3-2: REGULATIONS FOR ALL PARKS:
The following regulations shall apply to all city parks:

A. Speed Limit: No person shall operate a motor vehicle in any park nor shall a motor vehicle be operated in any park driveway at a speed in excess of five (5) miles per hour unless otherwise posted.

B. Parking In Proper Areas: No person shall park any motor vehicle in any place in public parks except in designated parking areas, nor between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M.

C. Fires: No fires shall be lighted or made in the park except in places provided for such purposes. All fires, whether wood or charcoal, must be completely extinguished before the person starting the fire leaves the area.

D. Fireworks And Firearms: No person shall discharge any firearms in the city parks without a permit from the city administrator. No person shall discharge any fireworks in the city parks without a permit from the fire chief.

E. Litter: No person shall scatter about or litter the grounds with any form of waste material.

F. Handbills And Posters: No person shall paste, affix or inscribe any handbill or poster on any structure or property in any of the parks or any place, square or roadway surrounding the same.

G. Nuisances; Decency Offenses: No person shall commit any nuisance or any offense against decency or public morals.

H. Throwing Objects Into Waters; Swimming: No person shall throw stones or rubbish of any kind in any lake, pool or watercourse nor bathe, swim or wade except in designated areas, and at designated times.

I. Damage To Property: No person shall break, cut, mutilate, injure, remove or carry away any tree, plant, flower, shrub, rock, soil, sand, fence, bench, table or any other property.

J. Defacing Property: No person shall write upon or mark or deface in any manner, or use in any improper way any property or thing pertaining to or in the parks.

K. Beverage Containers: No person shall possess, display or use in any city park any beverage in a glass container, or containers. Only metal cans or plastic bottles for holding beverages or soft drinks shall be brought onto or possessed, displayed or used on city park property.

L. Alcoholic Beverages Prohibited In Warming Houses: No person shall possess, display or use any alcoholic beverages (including so called 3.2 percent malt liquor) in any city building designated by the city council or used by the city as a "warming house" between the period of November 1 and ending the following April 30 of any year(s). The city administrator shall cause a notice of such designation and the prohibition provided in this subsection to be posted in any such warming house building.

M. Park Animals: No person shall disturb or interfere with any animals kept or found therein.

N. Dogs: No dogs shall be allowed in any of the parks except on a leash, and no owner or person in custody of a dog shall suffer or permit the dog to defecate upon public property without immediately removing the excrement and disposing of it in a sanitary manner [1].

O. Private commercial business activities, special events and other activities defined in Title 4, Chapter 8, Section 4-8-1 of this Code shall be prohibited in all city parks except Albertville Central/Lions Park. Special events in Albertville Central/Lions Park shall be permitted for local non- profit civic organizations with an approved outdoor special event permit in accordance with Title 4, Chapter 8 of this Code.

P. Games In Proper Areas: No person shall play any game of baseball, football, golf or other game therein, except in areas provided therefor and designed for that specific sport or use.

Q. Closing Hours: The closing hour for the parks is ten o'clock (10:00) P.M., and all people will leave the park at or prior to that time unless special permission shall have been given by the City Administrator for parties to remain longer therein.

R. Obedience To Authorized Persons: All persons shall obey all reasonable orders or directions of the City Administrator.

S. Tennis Courts: The following regulations pertain to all groups and/or individuals utilizing the tennis courts:

1. Use of courts is at the user's risk.
2. Courts are first come first serve; however, play must be limited to one hour if others are waiting.
3. No food, drinks, or glass containers on courts.
4. No pets.
5. No bicycles, roller blades or skate boards.
6. No sitting or hanging on nets.
7. No climbing on fence. (Ord. 1989-15, 10-2-1989; amd. Ord. 1990-1, 1-2-1990; 2005 Code; Ord. 2017-02, 5-15-2017; Ord. 2021-08, 6-21-2021)

Notes

1 1. See also sections 6-2-4 and 6-2-15 of this Code.

8-3-3: USE OF CERTAIN VEHICLES AND DEVICES IN FOUR SEASONS PARK:

No person shall operate or knowingly permit the operation or use of the following on any bituminous, paved or blacktopped trail, walkway or path in the City park. The Administrator shall cause an abbreviated notice of such prohibition to be posted in one or more locations in the Four Seasons Park.

A. A motor vehicle, motorcycle, or motorized bicycle (all as defined in Minnesota Statutes section 169.01); or

B. An all-terrain vehicle (as defined in Minnesota Statutes section 84.92, subdivision 8) or snowmobile (as defined in Minnesota Statutes section 84.81, subdivision 3) [1] . (Ord. 1990-5; amd. 2005 Code)

Notes

1 1. See also subsection 7-3-3B of this Code.

8-3-4: UNLAWFUL ACTS:
It is unlawful for any person to violate the regulations set forth in this chapter. (Ord. 1989-15, 10-2-1989)

8-3-5: MISDEMEANOR VIOLATION; PENALTIES:
Every person violates any provision of this chapter when such person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor as provided in section 1-4-1 of this Code. (Ord. 1989-15, 10-2-1989; amd. 2005 Code)

CHAPTER 4

CITY PROPERTY

SECTION:

8-4-1: Smoking Prohibited

8-4-2: Liquor Consumption

8-4-1: SMOKING PROHIBITED:
A. Purpose: The purpose of this section is to protect public health, comfort and environment.

B. Definitions: As used in this section, the following terms shall have the following respective meanings:

CITY OWNED BUILDINGS: All interior portions of city hall, all interior portions of the wastewater treatment facility buildings, all interior portions of park shelters presently in existence, and all interior portions of buildings constructed or purchased by the city after the effective date hereof.

CITY OWNED VEHICLES: All vehicles, including, but not limited to, trucks, snowplows, firetrucks and rescue vans, currently owned by the city and any and all vehicles purchased by the city after the effective date hereof.

SMOKING: Includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

C. Smoking Prohibited: No person shall smoke in city owned buildings or vehicles at any time.

D. Signs Posted: The city clerk shall post appropriate signs indicating that all city owned buildings and vehicles are no smoking areas. (Ord. 1993-9, 6-7-1993)

8-4-2: LIQUOR CONSUMPTION:
A. Prohibited Areas: The consumption of alcohol is prohibited at the fire hall except by approval of the Fire Chief for the annual fire relief association holiday party or other such special events as approved by the Fire Chief, the public works facility, the wastewater treatment plant and on any of the property on which those facilities are located unless the city has issued a permit for such consumption pursuant to subsection B of this section.

B. Permit To Consume: The city, in its discretion, may issue a permit to consume alcohol on city property to a club or charitable, religious, or other nonprofit organization which has been in existence for at least three (3) years.

C. Insurance Required: Any permit to consume alcohol on city property issued pursuant to subsection B of this section shall be conditioned upon the applicant providing proof of liability insurance coverage acceptable to the city which includes the city as a named insured and meeting any other reasonable conditions required by the city.

D. Consumption Of Alcohol At City Hall In Rented Facilities:

1. Consumption of alcohol at city hall in a portion of the city hall facilities rented by a person or organization shall be permitted if such alcohol is provided by an organization meeting the requirements of subsection B of this section and such alcohol is not sold on the premises of city hall.

2. Consumption of alcohol at city hall in a portion of the city hall facilities rented by a person or organization shall be permitted if such alcohol is not sold on the premises of city hall, and the person or organization renting the facilities names the city as an additional insured on a general liability insurance policy (such as a homeowners' policy) in the minimum amount of five hundred thousand dollars ($500,000.00) acceptable to the city by endorsement of host liquor liability to the rented premises at city hall.

3. The sale and consumption of alcohol at city hall in a portion of the city hall facilities rented by a person or organization shall be permitted only if such alcohol is provided by a caterer licensed under Minnesota statutes 340A.404, subdivision 12, to sell alcohol in the state of Minnesota and who carries dramshop insurance in the minimum amount of one million dollars ($1,000,000.00) under which the city is named as an additional insured party.

4. Any party leasing any portion of city hall where alcohol will be sold or served must first agree to and sign an agreement to hold the city harmless from claims arising from such rental and to defend and indemnify the city from all costs incurred as a result of such claims. The hold harmless and indemnification agreement must meet the approval of the city attorney.

(Ord. 2008-001, 5-5-2008; amd. Ord. 2020-05, 6-1-2020)

TITLE 9

UTILITIES AND PUBLIC SERVICES

CHAPTER 1

GENERAL UTILITY PROVISIONS

SECTION:

9-1-1: Underground Electric And Communication Lines

9-1-2: Water And Sewer Access Charges

9-1-2-1: Water Trunk Access Charge

9-1-2-2: Sanitary Sewer Trunk Access Charge

9-1-2-3: Water Trunk District For Selected Properties Abutting CSAH 37

9-1-2-4: Sewer Trunk District For Selected Properties Abutting CSAH 37

9-1-1: UNDERGROUND ELECTRIC AND COMMUNICATION LINES:

A. Installation In New Developments:

1. All permanent electric and telephone lines, excluding main feeder lines and high voltage electric transmission lines in excess of fifteen (15) kilovolts' capacity, and all other communication circuits and services as defined in the national electrical code shall be placed underground when installed in the following areas or when installed for the following types of customers:

a. In all new residential subdivisions or plats, whether for single-family residences or multiple dwellings.

b. To all new commercial or industrial developments.

2. All owners, platters or developers of the types of development listed in subsection A1 of this section are responsible for complying with the requirements of this section and, prior to the final approval of any plat or development plan or permit issuance, shall submit to the city planning commission written instruments from the appropriate utility companies showing that all necessary arrangements with said companies for underground installation of such facilities have been made.

B. Installation In Existing Developments; Underground Utility District:

1. The city council may, by resolution, upon receiving a petition signed by a majority of the owners of real property to be benefited, designate any area of the city as an underground utility district, and within such a district, all lines and circuits designated in subsection A of this section shall be required thereby to be placed underground within a period of time set by the council. The council shall also set the time within which affected property owners must be ready to receive underground service. The cost of such underground installation may be assessed by the city against benefiting properties as a public improvement following the procedures set out by Minnesota statutes concerning special assessments. In determining the cost of said installation, the city shall take into consideration the value of the overhead lines to be replaced and the cost of removing same, and the cost of obtaining new easements when such must be obtained. (Ord. 1979-3, 7-2-1979)

2. No assessment levied under this section shall be declared void nor shall any such assessment or part thereof be set aside in consequence of any error or irregularity permitted or appearing in any of the proceedings under this section. (Ord. 1979-3, 7-2-1979; amd. 2005 Code)

3. It shall be the responsibility of any utility customer within an underground utility district to sustain the expense of rewiring in order to accept an underground service which was provided pursuant to this section for that portion of the service which is usually and customarily the responsibility of the customer.

4. If underground installation in an underground utility district is not to be assessed, the city shall provide for such installation by direct agreement with the applicable utility companies.

C. Repair And Maintenance Of Existing Overhead Installations: Nothing in this section shall be construed to prevent the repair, maintenance, reconstruction, replacement or modification of existing overhead utility lines.

D. Exceptions: The requirements of this section shall apply unless the city council specifically shall find, after study and recommendation by the planning commission, that:

1. The placing of utilities underground would not be compatible with the planned, existing or surrounding development; or

2. The additional cost of undergrounding such utilities would create an undue financial hardship; or

3. Topographical, soil, or any other conditions make the underground installation unreasonable or impractical.

E. Misdemeanor Violation: Any person or firm violating any provision of this section or any official action taken under the authority of this section shall be guilty of a misdemeanor and shall be subject to the applicable penalties therefor, with each day constituting a separate violation. (Ord. 1979-3, 7-2-1979)

9-1-2: WATER AND SEWER ACCESS CHARGES:

A. Definitions: For the purpose of this section, the following words, terms and abbreviations shall have the meanings set out in this subsection, unless the context specifically indicates otherwise:

CITY: The city of Albertville, Wright County, Minnesota.

CITY SANITARY SEWER SYSTEM: Any part of the network of sanitary sewer connections and pipes, including lift stations and the sanitary sewer treatment plant located within the city, or any lines outside of the city but which connect to and are serviced by the Albertville sanitary sewer treatment plant.

DWELLING UNIT: That portion of a residential building intended to be occupied by only one family.

MULTIPLE DWELLING: A residential building intended for occupancy by more than one family.

OWNER: An individual or entity holding legal title to property within the city.

PUBLIC MUNICIPAL WATER SUPPLY: A water distribution system owned or operated by the city or owned or operated by a joint powers organization to which the city belongs.

SINGLE DWELLING: A residential building intended for occupancy by one family. (Ord. 1996-5, 3-4-1996)

B. Access Charge For Sewer Availability (SAC Charge): The city council shall have the power to set the amount required to be paid by an owner for connection to the city sanitary sewer system ("SAC charge"). The city council shall have the power to set different charges for residential and nonresidential connections, and shall have the power to change the bases on which such charges are calculated. Such charges may be changed by the city council from time to time. The SAC charges and bases for calculation shall be as follows:

1. Residential Connections: Residential single and multiple dwellings shall be charged one SAC charge per dwelling unit as established in section 3-1-3 of this code.

2. Nonresidential Connections:

a. The SAC charge for nonresidential connections shall be charged for every SAC unit. Nonresidential SAC units shall be calculated using the metropolitan council's "Sewer Availability Charge Procedure Manual", latest edition. SAC charges are established in section 3-1-3 of this code. (Ord. 2017-01, 1-3-2017)

b. Nonresidential connections shall pay an SAC charge for each connection based upon the estimated average daily water usage as determined by the "Service Availability Charge Procedure Manual" of the metropolitan council, latest edition, as may be amended from time to time, and as modified by the city. SAC charges for nonresidential connections shall be estimated by the city engineer at the time of the building permit application and may be adjusted once actual building use is determined. In the event the city engineer determines that the intended usage associated with the connection is not adequately provided for in the "Service Availability Charge Procedure Manual", the city engineer may use other reasonable procedures for estimating average daily water usage for purposes of determining the SAC units applicable to such connection. Additional SAC charges shall be applicable when a change of use occurs, or a building permit is issued for the remodeling of an existing structure or an addition to a structure where such change of use, remodel or addition increases the estimated average daily water usage upon which the previous SAC charge was based. (Ord. 1996-5, 3-4-1996; amd. 2005 Code; Ord. 2017-01, 1-3-2017)

C. Access Charge For Water Availability (WAC Charge): The city council shall have the power to set the amount required to be paid by an owner for connection to the public municipal water supply ("WAC charge"), shall have the power to set different charges for residential and commercial connections, and shall have the power to change the bases on which such charges are calculated. Such charges may be changed by the city council from time to time. The WAC charges and bases for calculation shall be as follows:

1. Residential Connections: Residential single and multiple dwellings shall pay a WAC charge as established in section 3-1-3 of this code for every dwelling unit which shall be credited to the city's WAC fund, and a fee set annually by the joint powers water board, which shall be forwarded to the joint powers water board.

2. Nonresidential Connections:

a. The WAC fee for nonresidential connections shall be charged for each WAC unit. Nonresidential WAC units shall be calculated using the metropolitan council's "Sewer Availability Charge Procedure Manual", latest edition. The WAC charge is established in section 3-1-3 of this code which shall be credited to the city's WAC fund and a fee set annually by the joint powers water board, which shall be forwarded to the joint powers water board. (Ord. 2017-05, 6-19-2017)

b. Nonresidential connections shall pay a WAC charge for each connection based upon the estimated average daily water usage as determined by the "Service Availability Charge Procedure Manual" of the metropolitan council, latest edition, as may be amended from time to time, and as modified by the city. WAC charges for nonresidential connections shall be estimated by the city engineer at the time of the building permit application and may be adjusted once actual building use is determined. In the event the city engineer determines that the intended usage associated with the connection is not adequately provided for in the "Service Availability Charge Procedure Manual", the city engineer may use other reasonable procedures for estimating average daily water usage for purposes of determining the WAC units applicable to such connection. Additional WAC charges shall be applicable when a change of use occurs, or a building permit is issued for the remodeling of an existing structure, or an addition to a structure where such change of use, remodel or addition increases the estimated average daily water usage upon which the previous WAC charge was based. (Ord. 2007-16, 11-19-2007, eff. 1-1-2008; amd. Ord. 2017-01, 1-3-2017)

D. Time And Method Of Payment: All SAC and WAC charges shall be paid when a building permit application is submitted to the city. No building permits will be issued prior to payment of SAC and WAC charges. Payment shall be in cash or by check acceptable to the city administrator.

E. Unpaid Charges: With respect to any owner who connects to the city sanitary sewer system or public municipal water supply without paying either an SAC or WAC charge, such unpaid charges shall be certified by the city council under applicable state statutes to the county auditor with taxes against the property so connected for collection as other taxes are collected.

F. Use Of Charges:

1. SAC Charges: All SAC charges shall be credited to the "204" SAC fund. Such funds may, as determined by council resolution, be used to offset costs incurred in the expansion of the city's sewer treatment plant, installation or maintenance of existing or future sewer lines and lift stations, purchase of necessary equipment or facilities or any debt service incurred in the past or to be incurred in the future to finance the above described sewer expansion, installation of sewer lines and lift stations, purchase of necessary equipment or facilities or any combination of the above. Nothing in this subsection shall act to revoke the prior pledge of such charges to debt service funds issued to fund sewer improvements. (Ord. 1996-5, 3-4-1996; amd. 2005 Code)

2. WAC Charges: WAC charges shall be credited to the bond debt service funds to which they have been pledged. Upon retirement of said bonds, WAC charges may be used for water improvement or maintenance purposes as the city council, by resolution, deems necessary.

G. Provisions Not Limiting: This section in no way precludes the city council from adopting additional ordinances imposing connection charges in lieu of assessments, or other such ordinances relating to connection or service charges with regard to the city sanitary sewer system or public municipal water supply system, nor does this section preclude the city from assessing to property owners the costs related to the installation of water and sewer lines, trunk mains and other sewer and water related facilities installed by the city or a joint powers entity. (Ord. 1996-5, 3-4-1996)

9-1-2-1: WATER TRUNK ACCESS CHARGE:

A. Definitions: For the purpose of this section, the following words and terms shall have the meanings set forth in this subsection:

CITY: The city of Albertville, Wright County, Minnesota.

MUNICIPAL WATER CONNECTION: The act of connecting any property or structure to city municipal water system such that said property or structure is able to draw water from the municipal water system.

MUNICIPAL WATER DISTRICT: A geographical division of property within the city providing the basis for the municipal water trunk access charge.

MUNICIPAL WATER SYSTEM: Any part of the network of municipal water connections and pipes located within the city of Albertville, including water trunk lines and lateral water lines.

MUNICIPAL WATER TRUNK ACCESS CHARGE: A charge imposed by the city for connection to the city's trunk water line within a given municipal water district.

OWNER: An individual or entity holding legal or equitable title to property within the city of Albertville.

B. Municipal Water Districts: The city hereby establishes a municipal water district over all property within the city borders.

C. Access Charge Imposed; Exemptions: Municipal water trunk access charges shall be imposed on all land within each municipal water district so as to reimburse the costs associated with the installation of trunk water lines, water mains and other necessary water distribution facilities. The city council may, by resolution, exempt from the municipal water trunk access charge those lands within each municipal water district which are already connected to the city municipal water or which have been previously assessed for the costs of the installation of municipal water trunk facilities. No connection shall be made to the city municipal water system serving the property of any person or occupants of the land, parcel or premises upon which municipal water trunk access charges remain unpaid. (Ord. 2004-24, 12-20-2004, eff. 1-1-2005)

D. Amount Of Charge: The municipal water trunk access charge, as established in section3-1-3 of this code, shall be collected per gross acre of land which is subdivided or connected to the water system. (Ord. 2017-01, 1-3-2017)

E. Method Of Calculating Charge: The municipal water trunk access charge shall be based on the gross area of land on the plat or other property being subdivided, including all outlots. The city council shall have the power to change the basis on which such charges are calculated.

F. Time Of Payment:

1. All trunk access charges shall be paid to the city at the earlier of:

a. Final plat approval for any plat in which a new municipal water connection is required for any property in such plat which is located within a municipal water district; or

b. Issuance of a building permit by the city for which a new municipal water connection is required within a municipal water district.

2. No final plat approval or building permits shall be issued prior to payment of the trunk access charges unless other arrangements for the payment of the municipal water trunk access charge are made and approved by the city.

3. Payment shall be in cash or by check acceptable to the city clerk and/or administrator.

G. Use Of Charges: The city may establish one or more trunk water funds and may credit all trunk access charges to such funds. Such funds may, as determined by council resolution, be used to offset costs incurred in the installation of existing or future water lines, or any debt service incurred in the past or to be incurred in the future to finance the municipal water expansions, improvements, or any combination of the above.

H. Provisions Not Limiting: This section in no way precludes the city council from adopting additional ordinances imposing other water related charges in lieu of assessments, or other such ordinances relating to area or service charges with regard to the municipal water system, nor does this section preclude the city from assessing to property owners the costs related to the installation of water lines, trunk mains, laterals and other water related facilities installed by the city. Nothing contained in this section shall act to revoke any existing water access charges. (Ord. 2004-24, 12-20-2004, eff. 1-1-2005)

9-1-2-2: SANITARY SEWER TRUNK ACCESS CHARGE:

A. Definitions: For the purpose of this section, the following words, terms and abbreviations shall have the meanings set out in this subsection, unless the context specifically indicates otherwise:

CITY: The city of Albertville, Wright County, Minnesota.

CITY SANITARY SEWER SYSTEM: Any part of the network of sanitary sewer connections and pipes, including the sanitary sewer treatment plant located within the city of Albertville, or any lines outside of the city of Albertville, but which connect to and are serviced by the Albertville sanitary sewer treatment plant.

OWNER: An individual or entity holding legal or equitable title to property within the city of Albertville.

SANITARY SEWER CONNECTION: The act of connecting any property or structure to the city sanitary sewer system such that said property or structure is able to discharge fluids into the city sanitary sewer system.

SANITARY SEWER DISTRICT: A geographical division of property within the city providing the basis for the sanitary sewer trunk access charge.

SANITARY SEWER TRUNK ACCESS CHARGE: A charge imposed by the city for connection to the city trunk sewer line within a given sanitary sewer district.

B. Sanitary Sewer Districts: The city hereby establishes a sanitary sewer district over all property within the city borders.

C. Access Charge Imposed; Exemptions: Sanitary sewer trunk access charges shall be imposed on all land within each sanitary sewer district so as to reimburse the costs associated with the installation of trunk lines, lift stations and other necessary sewer collection facilities. The city council may, by resolution, exempt from the sanitary sewer trunk access charge those lands within each sanitary sewer district which are already connected to the city sanitary sewer or which have been previously assessed for the costs of the installation of sanitary sewer trunk facilities. No connection shall be made to the city sanitary sewer system serving the property of any person or occupants of the land, parcel or premises upon which sanitary sewer trunk access charges remain unpaid. (Ord. 2004-25, 12-20-2004)

D. Amount Of Charge: The sanitary sewer trunk access charge, as established in section3-1-3 of this code, shall be collected per gross acre of land which is subdivided or connected to the sewer system. (Ord. 2017-01, 1-3-2017)

E. Method Of Calculating Charge: The sanitary sewer trunk access charge shall be based on the gross area of land on the plat or other property being subdivided, including all outlots. The city council shall have the power to change the basis on which such charges are calculated.

F. Time Of Payment:

1. All trunk access charges shall be paid to the city at the earlier of:

a. Final plat approval for any plat in which a new sanitary sewer connection is required for any property in such plat which is located within a sanitary sewer district; or

b. Issuance of a building permit by the city for which a new sanitary sewer connection is required within a sanitary sewer district.

2. No final plat approval or building permits shall be issued prior to payment of the trunk access charges unless other arrangements for the payment of the sanitary sewer trunk access charge are made and approved by the City.

3. Payment shall be in cash or by check acceptable to the City Clerk and/or Administrator.

G. Use Of Charges: The City may establish one or more trunk sewer funds and may credit all trunk access charges to such funds. Such funds may, as determined by Council resolution, be used to offset costs incurred in the installation of existing or future sewer lines, or any debt service incurred in the past or to be incurred in the future to finance the sanitary sewer expansions, improvements, or any combination of the above.

H. Provisions Not Limiting: This section in no way precludes the City Council from adopting additional ordinances imposing other sewer related charges in lieu of assessments, or other such ordinances relating to area or service charges with regard to the City sanitary sewer system, nor does this section preclude the City from assessing to property owners the costs related to the installation of sewer lines, trunk mains and other sewer related facilities installed by the City. Nothing contained in this section shall act to revoke the existing sewer access charges. (Ord. 2004-25, 12-20-2004)

9-1-2-3: WATER TRUNK DISTRICT FOR SELECTED PROPERTIES ABUTTING CSAH 37:

A. Definitions: For the purpose of this section, the following words and terms shall have the meanings set forth in this subsection:

CITY: The City of Albertville, Wright County, Minnesota.

MUNICIPAL WATER CONNECTION: The act of connecting any property or structure to City Municipal water system such that said property or structure is able to draw water from the Municipal water system.

MUNICIPAL WATER DISTRICT: A geographical division of property within the City providing the basis for the Municipal water trunk access charge.

MUNICIPAL WATER SYSTEM: Any part of the network of Municipal water connections and pipes located within the City of Albertville, including water trunk lines and lateral water lines.

MUNICIPAL WATER TRUNK ACCESS CHARGE: A charge imposed by the City for connection to the City's trunk water line within a given Municipal water district.

OWNER: An individual or entity holding legal or equitable title to property within the City of Albertville.

B. Municipal Water Trunk District: The City hereby establishes a Water Trunk District over all property within the borders identified in subsection H1, "Exhibit A", of this section.

C. Access Charge Imposed; Exemptions: Municipal water trunk access charges shall be imposed on all land within this water district so as to reimburse the costs associated with the installation of water trunk lines, water mains, and other necessary water distribution facilities. The City Council may, by resolution, exempt from the Municipal water trunk access charge those lands within the Municipal water district which are already connected to the City Municipal water or which have been previously assessed for the costs of installation of Municipal water trunk facilities. No connection shall be made to the City Municipal water system serving the property of any person or occupants of the land, parcel or premises upon which Municipal water trunk access charges remain unpaid. (Ord. 2009-023, 10-19-2009)

D. Amount Of Charge: The Municipal water trunk access charge shall be as follows:

1. A water trunk access charge, as established in section3-1-3 of this Code, shall be charged per acre for all property (but excluding delineated wetlands) located within the Municipal Water Trunk District which is platted or connected to the water system, plus interest at a rate of 6.2 percent per annum from October 19, 2009 through December 31, 2013, plus interest at a rate of 5.8 percent per annum from January 1, 2014, to the date of payment of such charge; and

2. A water trunk access charge, as established in section3-1-3 of this Code, shall be charged for any property, regardless of acreage, that connects to the Municipal water system in the area that is shown as the "supplemental connection charge required" area in subsection H2, "Exhibit B", of this section. (Ord. 2017-01, 1-3-2017)

3. No Municipal water trunk district access charges set out in section9-1-2-1 of this chapter shall apply to property located within the Municipal Water Trunk District defined in subsection B of this section.

The City Council may amend this charge from time to time.

E. Time Of Payment:

1. All trunk access charges shall be paid to the City at the earlier of:

a. Final plat approval for any plat in which a new Municipal water connection is required in such plat which is located within the Municipal Water Trunk District.

b. Issuance of a building permit by the City for which a new Municipal water connection is required within this Municipal Water Trunk District.

2. No final plat approval or building permits shall be issued prior to payment of the trunk access charges unless other arrangements for the payment of the Municipal water trunk access charge are made and approved by the City.

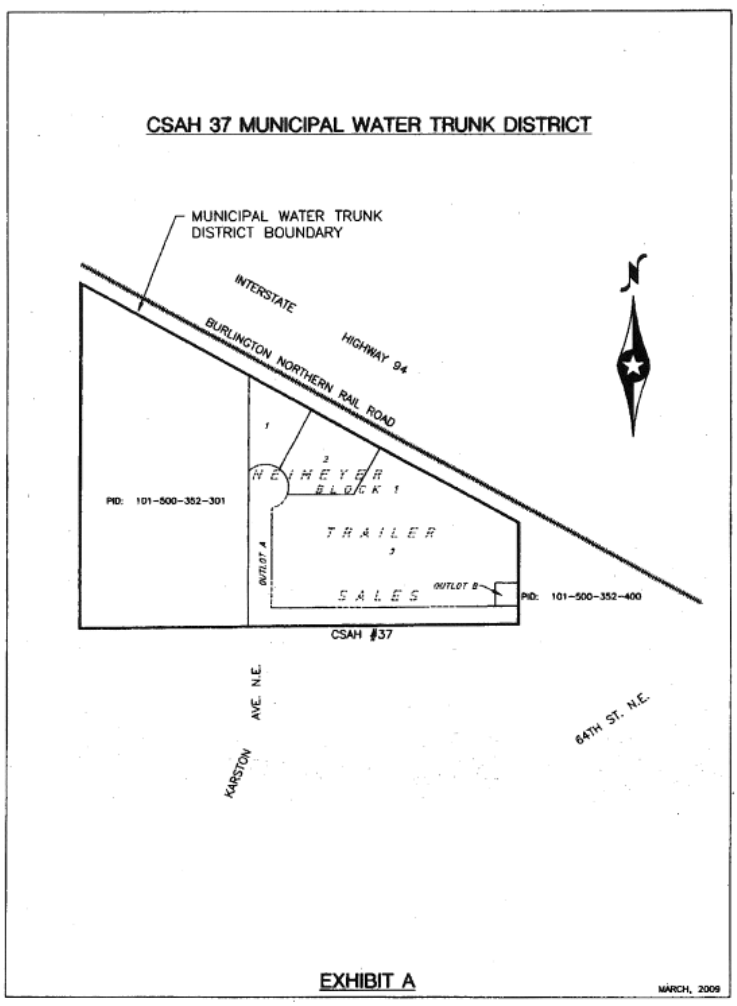
3. Payment shall be in cash or by check acceptable to the City.

F. Use Of Charges: The City may establish one or more trunk water funds and may credit all trunk access charges collected from this Municipal Water Trunk District to such funds. Such funds may, as determined by Council resolution, be used to offset costs incurred in the installation of existing or future water lines, or any debt service incurred in the past or to be incurred in the future to finance the Municipal water expansions, improvements, or any combination of the above within this district.

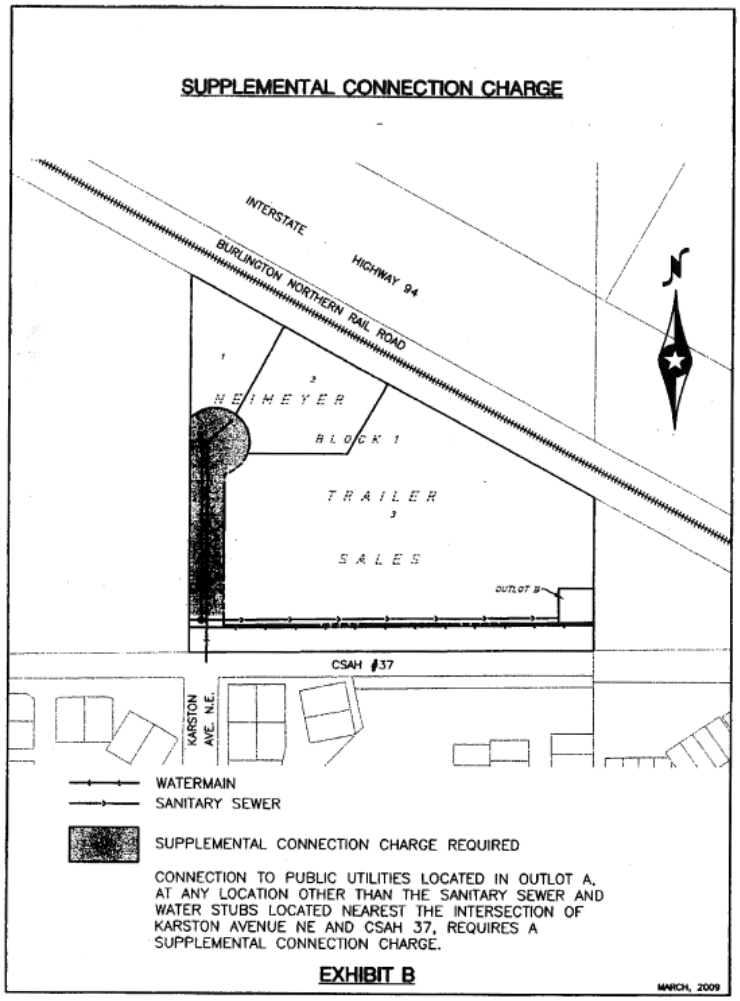
G. Provisions Not Limiting: This section in no way precludes the City Council from adopting additional ordinances imposing other water related charges in lieu of assessments, or other such ordinances relating to area or service charges with regard to the Municipal water system, nor does this section preclude the City from assessing to property owners the costs related to the installation of water lines, trunk mains, laterals and other water related facilities installed by the City.

H. Exhibits:

1. Exhibit A:


CSAH 37 MUNICIPAL WATER TRUNK DISTRICT
MUNICIPAL WATER TRUNK DISTRICT BOUNDARY
INTERSTATE
HIGHWAY 94
BURLINGTON NORTHERN RAIL ROAD
N
NEIHEYER
BLOCK 1
PID: 101-500-352-301
TRAILER
SALES
OUTLOT A
OUTLOT B
PID: 101-500-352-400
CSAH #37
KARSTON AVE. N.E.
64TH ST. N.E.
EXHIBIT A
MARCH, 2009

2. Exhibit B:



(Ord. 2009-023, 10-19-2009)

9-1-2-4: SEWER TRUNK DISTRICT FOR SELECTED PROPERTIES ABUTTING CSAH 37:

A. Definitions: For the purpose of this section, the following words and terms shall have the meanings set forth in this subsection:

CITY: The City of Albertville, Wright County, Minnesota.

MUNICIPAL SANITARY SEWER CONNECTION: The act of connecting any property or structure to the City sanitary sewer system such that said property or structure is able to discharge fluids into the City sanitary sewer system.

MUNICIPAL SANITARY SEWER DISTRICT: A geographical division of property within the City providing the basis for the sanitary sewer trunk access charge.

MUNICIPAL SANITARY SEWER SYSTEM: Any part of the network of sanitary sewer connections and pipes including the sanitary sewer treatment plant located within the City of Albertville, or any lines outside of the City of Albertville, but which connect to and are serviced by the Albertville sanitary sewer treatment plant.

MUNICIPAL SANITARY SEWER TRUNK ACCESS CHARGE: A charge imposed by the City for connection to the City trunk sewer line within a given sanitary sewer district.

OWNER: An individual or entity holding legal or equitable title to property within the City of Albertville.

B. Municipal Sewer Trunk District: The City hereby establishes a Sanitary Sewer Trunk District over all property within the borders identified in subsection H1, "Exhibit A", of this section.

C. Access Charge Imposed; Exemptions: Municipal sanitary sewer trunk access charges shall be imposed on all land within this Sanitary Sewer District so as to reimburse the costs associated with the installation of trunk lines, lift stations, and other necessary sewer collection facilities. The City Council may, by resolution, exempt from the Municipal sanitary sewer trunk access charge those lands within the Municipal Sanitary Sewer District which are already connected to the City Municipal sanitary sewer or which have been previously assessed for the costs of installation of sanitary sewer trunk facilities. No connection shall be made to the City sanitary sewer system serving the property of any person or occupants of the land, parcel or premises upon which Municipal sanitary sewer trunk access charges remain unpaid. (Ord. 2009-022, 10-19-2009)

D. Amount Of Charge: The Municipal sewer trunk access charge shall be as follows:

1. A sewer trunk access charge, as established in section 3-1-3 of this Code, shall be charged per acre for all property (but excluding delineated wetlands) located within the Municipal Sanitary Sewer Trunk District which is platted or connected to the City's sanitary sewer system, plus interest at a rate of 6.2 percent per annum from October 19, 2009 through December 31, 2013, plus interest at a rate of 5.8 percent per annum from January 1, 2014, to the date of payment of such charge; and

2. A sewer trunk access charge, as established in section 3-1-3 of this Code, shall be charged for any property, regardless of acreage, that connects to the municipal sanitary sewer system in the area that is shown as the "supplemental connection charge required" area in subsection H2, "Exhibit B", of this section. (Ord. 2017-01, 1-3-2017)

3. No Sanitary Sewer Trunk District access charges set out in section 9-1-2-2 of this chapter shall apply to property located within the Municipal Sewer Trunk District defined in subsection B of this section.

The City Council may amend this charge from time to time.

E. Time Of Payment:

1. All trunk access charges shall be paid to the City at the earlier of:

a. Final plat approval for any plat in which a new sanitary sewer connection is required in such plat which is located within the Municipal Sanitary Sewer District.

b. Issuance of a building permit by the City for which a new sanitary sewer connection is required within the Municipal Sanitary Sewer District.

2. No final plat approval or building permits shall be issued prior to payment of the trunk access charges unless other arrangements for the payment of the sanitary sewer trunk access charge are made and approved by the City.

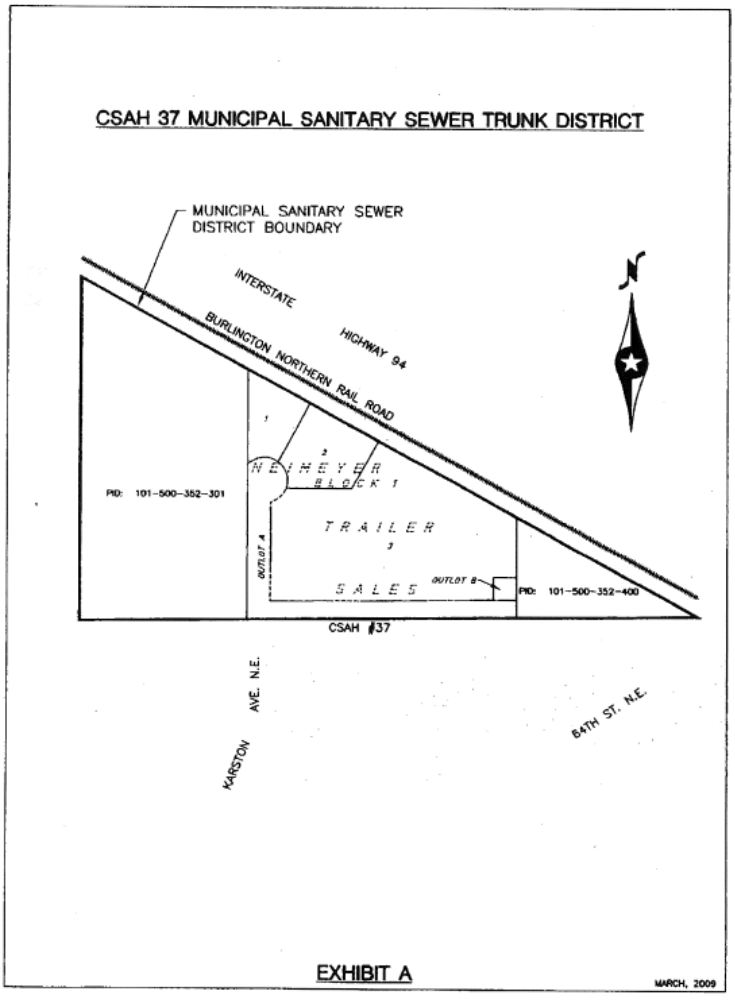
3. Payment shall be in cash or by check acceptable to the City.

F. Use Of Charges: The City may establish one or more trunk sewer funds and may credit all trunk access charges collected from this Municipal Sanitary Sewer District to such funds. Such funds may, as determined by Council resolution, be used to offset costs incurred in the installation of existing or future sewer lines, or any debt service incurred in the past or to be incurred in the future to finance the sanitary sewer expansions, improvements, or any combination of the above within the district.

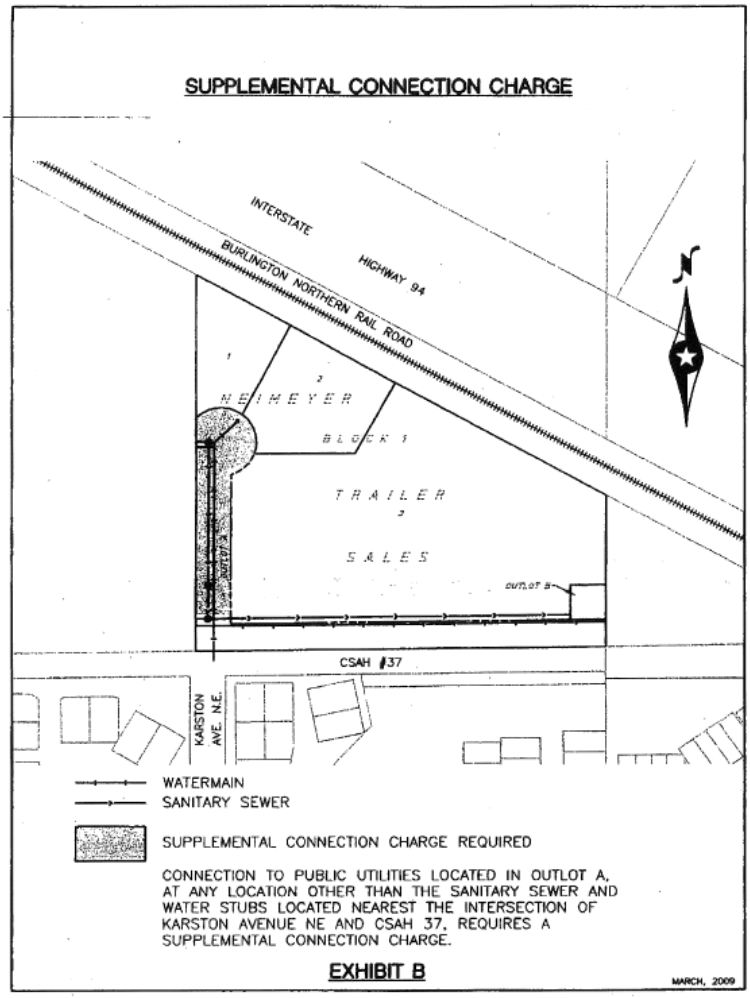
G. Provisions Not Limiting: This section in no way precludes the City Council from adopting additional ordinances imposing other sewer related charges in lieu of assessments, or other such ordinances relating to area or service charges with regard to the City sanitary sewer system, nor does this section preclude the City from assessing to property owners the costs related to the installation of sewer lines, trunk mains, or other sewer related facilities installed by the City.

H. Exhibits:

1. Exhibit A:



2. Exhibit B:



(Ord. 2009-022, 10-19-2009)

CHAPTER 2

WATER USE AND SERVICE

SECTION:

9-2-1: Operation By Water And Sanitary Sewer District

9-2-2: Authority To Turn On Water And Tap Mains

9-2-3: Separate Services Required

9-2-4: Permitting Use By Others

9-2-5: Meters

9-2-6: Installation Requirements

9-2-7: Maintenance And Repair

9-2-8: Fire Hydrant Use

9-2-9: Water Shortages; Sprinkling Ban

9-2-10: Rates And Charges

9-2-11: Interruption, Discontinuance Of Service

9-2-12: Private Water Supply

9-2-1: OPERATION BY WATER AND SANITARY SEWER DISTRICT:
The water system and facilities of the city shall be operated and controlled by the city of Albertville or the Hanover, Frankfort, St. Michael and Albertville water district (hereinafter referred to in this chapter as "the district"). No competing service or persons shall offer water services or facilities to anyone within the city covered by this chapter. (Ord., 7-17-1978; amd. 2005 Code)

9-2-2: AUTHORITY TO TURN ON WATER AND TAP MAINS:
No person except an authorized city or district employee shall turn on any water supply at the stop box or tap any distributing main or pipe of the water supply system or insert a stopcock or other appurtenance therein without required permits. (Ord., 7-17-1978; amd. 2005 Code)

9-2-3: SEPARATE SERVICES REQUIRED:
No more than one house or building shall be supplied from one service connection except by special permission of the council. Whenever two (2) or more parties are supplied from one pipe connecting with a service main, each building or part of building separately supplied shall have a separate stop box and a separate meter. (Ord., 7-17-1978; amd. 2005 Code)

9-2-4: PERMITTING USE BY OTHERS:
No person shall permit district water to be used for any purpose except upon his own premises, except in an emergency, and then only if written permission is first obtained from the district. (Ord., 7-17-1978)

9-2-5: METERS:
A. Metered Water Required; Tampering With Meters Prohibited: Except for the extinguishment of fires, no person other than an authorized city or district employee shall use water from the district drawn therefrom unless the water passes through a meter supplied or approved by the city. No person not authorized by the city shall connect, disconnect, take apart, or in any manner change or interfere with any such meter or its use. (Ord., 7-17-1978; amd. 2005 Code)

B. Cost To Customers; Repurchase By City: Meters shall be supplied to customers at a price established in section3-1-3 of this code. Only meters supplied by the city may be used. The city may repurchase meters at such time as they are no longer needed by the customer. If repurchased, the purchase price shall be the original sale price. (Ord. 2017-01, 1-3-2017)

C. Installation Requirements: Every water meter shall be installed in accordance with the following provisions:

1. The service pipe from the water main to the meter shall be brought through the floor in a vertical position where the pipe enters the building. The stop valve shall be twelve inches (12") above the floor.

2. The bottom of the meter shall be between six (6) and twelve inches (12") above the finished floor line. The meter shall be set not more than twelve inches (12") horizontally from the inside line of the basement wall unless a different position is approved by the city. A suitable bracket shall be provided to support the meter in a proper vertical position and prevent noise from vibration.

3. Each meter installation shall have a stop valve on the street side of the meter. In no case shall there be more than twelve inches (12") of pipe between the point of entrance through the basement floor and the stop valve. A stop valve shall also be installed on the house side of the meter.

4. The water pipe connecting with the main shall not exceed two feet (2') under the basement floor from the inside of the basement wall to the water meter connection.

5. Meter setting devices shall be of copper or brass pipe or tubing from the terminus of the service pipe up to and including the stop valve on the building site.

D. Access To Meters: Authorized meter readers and repair personnel shall have free access at reasonable hours of the day to all parts of every building and premises connected with the city water supply system in order to read meters, make inspections and make repairs. Denial of access shall cause the water to be shut off.

E. Maintenance And Repair: The city shall maintain and repair, at its expense, any meter that has become unserviceable through ordinary wear and tear and shall replace it if necessary. Where repair or replacement is made necessary by act or neglect of the owner or occupant of the premises it serves, any city expense caused thereby shall be a charge against and collected from the water consumer, and water service may be discontinued until the cause is corrected and the amount charged is paid.

F. Complaints; Meter Testing: When a consumer complains that the bill for any past service period is excessive, the city shall have the meter reread on request. If the consumer remains dissatisfied, he may, on written request, have the meter tested. If the test shows an error in the city's favor exceeding five percent (5%) of water consumed, a new meter shall be installed, and the bill shall be adjusted accordingly. If the test shows an error in the customer's favor exceeding five percent (5%) of the water consumed, such adjustment shall not extend back more than the last billing period from the date of the written request.

G. Removal And Replacement Of Meters: Water meters may be removed or replaced as to size and type when deemed necessary by the city. (Ord., 7-17-1978; amd. 2005 Code)

9-2-6: INSTALLATION REQUIREMENTS:
A. Service Pipes: Every service pipe shall be laid with sufficient bend to allow not less than one foot (1') of extra length and in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than seven feet (7') below the ground surface and be so arranged as to prevent rupture by freezing. A shutoff of the size and strength required shall be placed close to the inside wall of the building and be well protected from freezing. Copper tubing shall be used for all services of two inches (2") or less. Joints on copper tubing shall be as few as possible, and not more than one joint shall be used for a service up to seventy feet (70') in length. Each joint shall be left uncovered until inspection by the city. Every service over two inches (2") shall be C-900 PVC. Connections with the mains for domestic supply shall be at least one inch (1") diameter.

B. Location Of Curb Stop Boxes: Curb stop boxes shall be installed as directed by the city, but they shall be placed as near as possible to the property line if on a street or within one foot (1') of the alley line if the main is located in the alley. They shall be installed at an approximate depth of seven and one-half feet (7.5') below the established grade and shall be left in an accurate vertical plumb position when backfilling is completed. (Ord., 7-17-1978; amd. 2005 Code)

9-2-7: MAINTENANCE AND REPAIR:
The consumer or owner shall be responsible for maintaining the service pipe from the curb box into the building served. If the consumer or owner fails to repair any leak in such service pipe within twenty four (24) hours after notice by the city, the city may turn the water off. The water shall remain off until the leak is repaired and billing arrangements made with the city. When the discharge of water is great or damage is likely to result from the leak, the city may turn the water off immediately, upon the giving of notice, if repair is not commenced immediately. (Ord., 7-17-1978; amd. 2005 Code)

9-2-8: FIRE HYDRANT USE[1]:
A. Users Restricted:

1. No fire hydrant within the city shall be opened or operated by any person, except authorized city employees or employees of Hanover, Frankfort, St. Michael and Albertville water and sanitary sewer board (the "district"), or members of a fire department, except as provided herein. (Ord. 1984-9, 9-4-1984; amd. 2005 Code)

2. No person other than authorized personnel or employees shall operate a fire hydrant or interfere in any way with the city water system without first obtaining authority to do so from the city.

3. Anyone wishing to obtain water from a hydrant for construction purposes shall make application to the district for such services. (Ord., 7-17-1978; amd. 2005 Code)

B. Penalties: Any person violating any provision of this section shall, upon conviction, be punished as provided in section1-4-1 of this code, plus, in either case, the costs of prosecution. (Ord. 1984-9, 9-4-1984; amd. 2005 Code)

Notes

1 1. See also appendix A, section 1000.21 of this code for fire hydrant obstruction provisions.

9-2-9: WATER SHORTAGES; SPRINKLING BAN:

A. Authority: In case of emergency or water supply shortage, as determined by the joint powers water board, the city council may, by resolution, limit the times and hours during which water may be used for sprinkling, irrigation, car washing, air conditioning, or other specified uses.

B. Days And Hours For Sprinkling; Exemptions: The city council may prohibit lawn and garden watering between the hours of ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M. and/or may require residents whose addresses end in even numbers to water on even number days and residents whose addresses end in odd numbers to water on odd number days. New sod and/or seeding is exempt from these restrictions during the first sixty (60) days of growth.

C. Compliance Required: The city council shall require compliance with any or all of these restrictions, or any modification of, or addition to, the restrictions contained herein; and whatever is deemed necessary by the joint powers water board and when directed to do so by the board.

D. Misdemeanor Violation: After publication of the resolution or two (2) days after mailing of the resolution to each customer, conviction of a violation shall be a misdemeanor as defined in the Minnesota statutes, punishable as provided in section 1-4-1 of this code. Each day will be considered a separate violation.

E. Third Violation; Water Shutoff; Fees: The joint powers water board may shut off water at the street following the third violation until such time as the property owner complies with the restrictions. Turn on fees as established by resolution of the city council will be added to the penalties. (Ord. 1996-12, 4-1-1996; amd. 2005 Code)

9-2-10: RATES AND CHARGES 1 :

A. Water Connection And Inspection: Each water user shall pay for water connection and inspection, a fee as established in section 3-1-3 of this code, prior to issuance of the building permit.

B. User Charges: Each water user shall pay a monthly amount as established in section 3-1-3 of this code based on water used.

C. Fees For Notice Of Shutoff: A processing fee as established in section 3-1-3 of this code shall be imposed every time: 1) the city sends a notice of intent to shut off water for nonpayment of bill; and 2) the city posts a notice upon the premises of the proposed water shutoff; and 3) an owner of the property has been sent a notice of intent to shut off water for nonpayment of bill within the previous twelve (12) months; and 4) the delinquent account is paid in full or a payment plan is agreed upon with the city prior to shutoff of water service.

D. Water Shutoff And Restoration Fees: A water shutoff fee as established in section 3-1-3 of this code shall be imposed every time water service is shut off to a property. A water restoration fee as established in section 3-1-3 of this code shall be imposed every time water service is restored to a property. The city council may change the water shutoff and water restoration fees from time to time via city council resolution. (Ord. 2017-01, 1-3-2017)

E. Responsibility For Charges: All charges authorized by this chapter shall be imposed against the owner of the premises or against the owner and occupant, jointly and severally, if the premises is not owner occupied. The owner shall be responsible for monitoring and shall be liable for water supplied to the owner's property, whether the owner is occupying the property or not, and all charges shall be a lien upon the property until paid. All charges shall be due and payable as provided in this chapter or as provided by separate resolution of the city council or by administrative billing statement, if not provided in this section. Any unpaid charges shall constitute a lien against the premises from and after the date they were due and unpaid and shall be certified to the county auditor for collection with taxes. (Ord. 2012-003, 11-19-2012)

Notes

1 1. See section 9-1-2 of this title for water access charges.

9-2-11: INTERRUPTION, DISCONTINUANCE OF SERVICE:

A. If possible, notice of discontinued or disrupted service shall be given all water users, but the city may discontinue service to any water consumer without notice for necessary repairs, or upon notice as provided for nonpayment of charges pursuant to the procedures set out in this chapter, or for violation of rules and regulations affecting utility service. (Ord. 2007-15, 11-5-2007)

B. The city shall endeavor to collect delinquent water and sewer accounts promptly. Where satisfactory arrangements for payment have not been made for either a water billing account or a sanitary sewer billing account sixty (60) or more days past due, the city may cause a discontinuance of water service to the delinquent customer by shutting off the water at the curb stop after two (2) weeks' mailed notice to the tenant or owner sent to the address where water service is received and after posted notice upon the premises of the proposed water shutoff at least twenty four (24) hours prior to such shutoff. When water service to any premises has been discontinued, service shall not be restored except upon the payment of all delinquent water and sewer bills and the shutoff and reconnection fees established in section 3-1-3 of this code. (Ord. 2007-15, 11-5-2007; amd. Ord. 2017-01, 1-3-2017)

C. Delinquent accounts shall be certified by the finance director who shall periodically prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served. The assessment roll shall be delivered to the city council for adoption for certification to the county auditor for collection along with taxes. Such action is optional and may be subsequent or in addition to taking other legal action to collect delinquent accounts. (Ord. 2007-15, 11-5-2007)

9-2-12: PRIVATE WATER SUPPLY:

A. Permit Required: No person, group, corporation, association, cooperative, partnership or anyone else may install a private water system without the express written permission of the city. Said permission shall be granted when a private system is the only feasible alternative because the city cannot offer service in the area sought to be served.

B. Cross Connections Prohibited: No water pipe of the city water supply system shall be connected with any pump, well, or tank that is connected with any other source of water supply. When any such connection is found, the city shall notify the owner to sever the connection, and if this is not done immediately, the city shall turn off the water supply forthwith. Before any new connection to the district system is permitted, the city shall ascertain that no cross connection will exist when the new connection is made. (Ord., 7-17-1978; amd. 2005 Code)

CHAPTER 3

SEWER USE AND SERVICE

SECTION:

9-3-1: Definitions

9-3-2: Supervision

9-3-3: Fees And Charges

9-3-4: Use Of Public Sewer Required

9-3-5: Private Wastewater Disposal Systems

9-3-6: New Connections Require Available Capacity

9-3-7: Building Sewers And Connections

9-3-8: Licensed Plumbers (Rep. by Ord. 2019-13, 12-16-2019)

9-3-9: Discharges Into Public System

9-3-10: Interceptors And Catch Basins

9-3-11: Pretreatment Or Flow Equalization

9-3-12: Repairs And Maintenance

9-3-13: Measurements, Tests And Analyses

9-3-14: Tampering With Or Damage To System

9-3-15: Powers And Authority Of Inspectors

9-3-16: Violations; Penalties

9-3-1: DEFINITIONS:
Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

ASTM: The American Society for Testing Materials.

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20°C), expressed in milligrams per liter (mg/l).

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER: The extension from the building drain to the public sewer or other place of disposal; also called house connection or service connection.

CITY: The area within the corporate boundaries of the city of Albertville as presently established or as amended by ordinance or other legal actions at a future time. The term "city", when used herein, may also be used to refer to the city council and its authorized representatives.

COMBINED SEWER: A sewer intended to serve as sanitary sewer and a storm sewer, or as an industrial sewer and a storm sewer.

EASEMENT: An acquired legal right for the specific use of land owned by others.

FLOATABLE OIL: Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE: The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

INCOMPATIBLE WASTE: Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in the receiving waters of the wastewater treatment works.

INDUSTRIAL USERS OR INDUSTRIES:

A. 1. Entities that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the process employed in industrial or manufacturing processes or from the development of any natural resources are identified in the standard industrial classification manual, 1972, office of management and budget, as amended and supplemented under one of the following divisions:

Division A. Agricultural, forestry and fishing.

Division B. Mining.

Division D. Manufacturing.

Division E. Transportation, communications, electric, gas, and sanitary sewers.

Division I. Services.

2. For the purpose of this definition, domestic or sanitary waste shall be considered to have the following characteristics:

BOD_5	less than 250 mg/l
Suspended solids	less than 250 mg/l
Phosphorous	less than 10 mg/l

B. Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment facilities.

INDUSTRIAL WASTES: Wastewater discharged by industry that includes solid, liquid or gaseous waste resulting from the industrial or manufacturing process, trade or business or from the development, recovery or processing of natural resources.

INTERCEPTOR SEWER: A sewer whose primary purpose is to transport wastewaters from collector sewers to a treatment facility.

MAY: Is permissive. (See definition of Shall.)

NPDES PERMIT (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT): The system for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone, and the oceans, by the environmental protection agency pursuant to the federal water pollution control act of 1972, sections 402 and 405.

NATURAL OUTLET: Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or ground water.

NORMAL DOMESTIC STRENGTH WASTE: Wastewater that is primarily produced by residential users with BOD concentrations less than two hundred fifty milligrams per liter (250 mg/l), TSS concentration of less than two hundred fifty milligrams per liter (250 mg/l) and phosphorous concentration of ten milligrams per liter (10 mg/l) or less as distinct from industrial waste and the characteristics as stated in the definition of "industrial users or industries" of this section.

P: The phosphorous concentration of the influent.

PERSON: Any individual, firm, company, association, society, corporation, or group.

pH: The reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7}.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch ($^1/_2$") (1.27 cm) in any dimension.

PUBLIC SEWER: A common sewer owned and maintained by the city.

RESIDENTIAL, COMMERCIAL, AND INSTITUTIONAL/GOVERNMENTAL USERS: Nonindustrial users.

SDS PERMIT (STATE DISPOSAL SYSTEM PERMIT): Any permit, including any terms, conditions or requirements thereof, issued by the Minnesota pollution control agency pursuant to Minnesota statutes section 115.07 for a disposal system as defined by Minnesota statutes section 115.01, subdivision 8.

SANITARY SEWER: A sewer intended to carry only sanitary or sanitary and industrial wastewater from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

SEWAGE: The spent water of a community. The preferred term is "wastewater".

SEWER: A pipe or conduit that carries wastewater or drainage water.

SHALL: Is mandatory. (See definition of May.)

SLUG: Any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the water reclamation plant.

STORM DRAIN (Sometimes Termed STORM SEWER): A drain or sewer intended to carry storm waters, surface runoff, ground water, subsurface water, street wash water, drainage and unpolluted water from any source.

SUPERINTENDENT: The water and wastewater superintendent or his authorized deputy, agent, or representative.

SUSPENDED SOLIDS: Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods For The Examination Of Water And Wastewater" and referred to as nonfilterable residue.

UNPOLLUTED WATER: Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

WPCF: The water pollution control federation.

WASTEWATER: The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any ground water, surface water, and storm water that may be present.

WASTEWATER FACILITIES: The structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT WORKS OR TREATMENT WORKS: An arrangement of devices and structures for treatment of wastewater, industrial waste, and sludge. Sometimes used as synonymous with "plant" or "sewage treatment plant".

WATERCOURSE: A natural or artificial channel for the passage of water either continuously or intermittently. (Ord. 2004-11)

9-3-2: SUPERVISION:
The Water and Wastewater Superintendent shall have control and general supervision of all public sewers and service connections in the City, and shall be responsible for administering the provisions of this chapter to the end that a proper and efficient public sewer system is maintained. (Ord. 2004-11)

9-3-3: FEES AND CHARGES:

A. Sewer Connection And Inspection Fee: No connection shall be permitted to the City sewer system until a permit and inspection fee, as established in section 3-1-3 of this Code, has been paid to the City. Any reinspection fee is established in section 3-1-3 of this Code per occurrence. A twenty four (24) hour notice is required before the inspection will commence.

B. User Charges: Each user of sewer service shall pay the charge(s) applicable to the user class type of service as established in section 3-1-3 of this Code.

C. Responsibility For Charges: All charges authorized by this chapter shall be imposed against the owner of the premises or against the owner and occupant, jointly and severally, if the premises is not owner occupied. The owner shall be responsible for monitoring and shall be liable for sewer service supplied to the owner's property, whether the owner is occupying the property or not, and all charges shall be a lien upon the property until paid. All charges shall be due and payable as provided in this chapter or as provided by separate resolution of the City Council or by

administrative billing statement, if not provided in this section. Any unpaid charges shall constitute a lien against the premises from and after the date they were due and unpaid and shall be certified to the County auditor for collection with Real Estate Taxes, which shall be in addition to any other remedies available to the City.

D. Delinquent Accounts: Delinquent accounts shall be certified by the Finance Director who shall periodically prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served. The assessment roll shall be delivered to the City Council for adoption for certification to the County auditor for collection along with taxes. Such action is optional and may be subsequent or in addition to taking other legal action to collect delinquent accounts.

E. Discontinuance Of Service: The City may discontinue water service to any premises pursuant to subsection 9-2-11B of this title which has an outstanding delinquent sewer billing sixty (60) or more days past due. (Ord. 2018-01, 1-2-2018)

9-3-4: USE OF PUBLIC SEWER REQUIRED:

A. Discharge Of Human And Animal Waste: It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or objectionable waste.

B. Discharges Into Natural Outlets: It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter and the City NPDES/SDS permit.

C. Private Systems: Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

D. Connection To Sewer System Required[1]:

1. Notice To Connect: Where a public sanitary sewer is within three hundred feet (300') of the structure generating wastewater, the owner shall make connection in a manner according to the City within three hundred sixty five (365) days after written notice has been served on the owner or his authorized representative, or by mail sent to his last known address. If the owner cannot be reached by mail so addressed, then the City may serve the written notice upon the occupant. Failure to remedy within the allotted time may result in a penalty as established in section 9-3-16 of this chapter. The City has the right to waive this subsection D1 until change of ownership of said property.

2. Failure To Comply; Abatement: Whenever the notice provided for in this section is not complied with, the City Council shall, by resolution, direct the work to be done. The cost of the installation shall be paid initially from the General Fund and then assessed by the City against the property benefited. If the assessment is not paid to the City Treasurer within ten (10) days after the Clerk has served written notice in the same manner as provided in subsection D1 of this section, the City Clerk shall then certify the amount of the assessment to the County auditor for collection in the same manner as other special assessments. The City Council may, by resolution, provide that the assessment be spread over a term of three (3) years upon request of the property owner or his authorized representative.

E. Public System Exclusive Right Of City: The City retains the exclusive right to furnish public sanitary sewer service to all buildings within the City. No person, firm, corporation or other legal entity shall construct, maintain or operate within the City a public sanitary sewer system or serve any building with a sanitary sewer system or gather waste or sewage therefrom. (Ord. 2004-11)

Notes

1 1. See also appendix A, subsection 1000.16A of this Code.

9-3-5: PRIVATE WASTEWATER DISPOSAL SYSTEMS[1]:

Where a public sanitary sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provision of chapter 4 of this title. (Ord. 2004-11)

Notes

1 1. See also appendix A, section 1000.17 and subsection 4905.82B of this Code.

9-3-6: NEW CONNECTIONS REQUIRE AVAILABLE CAPACITY:

Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities, including, but not limited to, capacity for flow, BOD and suspended solids. (Ord. 2004-11)

9-3-7: BUILDING SEWERS AND CONNECTIONS:

A. Permit To Connect; Application Of Provisions:

1. Permit Required; Application To All Sewers: No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a building permit from the City. The provisions of this section shall also apply to connections made indirectly through privately owned or privately constructed sewers.

2. Application For Permit: Application for permits shall be made by the owner or authorized agent and the party employed to do the work on forms prescribed by the City. The form shall state the location, name of owner, street number of the building to be connected, and how occupied.

3. Fee: A permit and inspection fee as provided in subsection 9-3-3A of this chapter shall be paid to the City at the time the application is filed.

4. Display Of Permit: The permit shall be displayed at the site occupied and where the connection is to be made.

5. Extension Of Service:

a. No person shall extend any private drain beyond the limits of the building or property for which the service connection permit has been given.

b. Any person who desires to construct, reconstruct, extend, or alter a service connection shall, before beginning work, file with the City a plan showing the whole course of the service connection and all branches, traps and fixtures connected therewith. If the City finds that the plans do not conform to the requirements of this chapter, the City shall not issue a permit for such work.

B. Separate Building Sewers Required: A separate and independent building sewer shall be provided for every building; except, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building

sewer. But the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

C. Use Of Old Building Sewers: Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent or his representative, to meet all requirements of this chapter.

D. Construction Specifications [1] :

1. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the state building and plumbing code or other applicable rules and regulations of the city [2] .

2. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

E. Connections To System: The connection of the building sewer into the public sewer shall conform to the requirements of the state building and plumbing code or other applicable rules and regulations of the city [3] . All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the city before installation.

F. Excavations: All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city representative.

G. Surface Water Runoff Prohibited: No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer in accordance with chapter 6 of this title.

H. Inspections: The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.

I. Liability For Costs And Expenses: All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Ord. 2004-11)

Notes

1 1. See also subsection 11-8-5A4 of this code.

2 2. See section 10-2-1 of this code.

3 1. See section 10-2-1 of this code.

9-3-8: LICENSED PLUMBERS:
(Rep. by Ord. 2019-13, 12-16-2019)

9-3-9: DISCHARGES INTO PUBLIC SYSTEM:
A. Storm And Surface Water Runoff:

1. No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, ground water, roof runoff, subsurface drainage, or cooling water to any sanitary sewer in accordance with chapter 6 of this title.

2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the city and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged to a storm sewer or natural outlet on approval of the city and upon approval and issuance of a discharge permit by the MPCA.

B. Prohibited Discharges: No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas which, by reason of their nature or quantity, are or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion, or be injurious in any other way to the treatment facilities or to the operation of the system.

2. Any water containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in the receiving wastes of the wastewater treatment works. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the clean water act and revisions thereof.

3. Any waters or wastes having a pH lower than 5.5 or greater than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater facilities and/or wastewater treatment works.

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., and either whole or improperly ground garbage.

C. Restricted Discharges: The following described substances, materials, waters, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, wastewater treatment works, treatment process or equipment, will not have an adverse effect on the receiving stream, and/or soil, vegetation and ground water, or will not otherwise endanger lives, limbs, or public property, or constitute a nuisance. The superintendent may set limitations lower than limitations established in this subsection if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment works, the city NPDES and/or SDS permits and other pertinent factors. The limitations or restrictions on materials or characteristics of water or wastewater discharged to the sanitary sewer which shall not be violated without approval of the superintendent are as follows:

1. Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (65 degrees Celsius).

2. Wastewater containing more than twenty five milligrams per liter (25 mg/l) of petroleum oil, nonbiodegradable cutting oils, or product of

mineral oil origin.

3. Any wastewater containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred milligrams per liter (100 mg/l) or containing substances which may solidify or become viscous at temperatures between thirty two degrees Fahrenheit (32°F) and one hundred fifty degrees Fahrenheit (150°F) (0 degrees Celsius and 65.6 degrees Celsius).

4. Any garbage that has not been properly shredded (see section 9-3-1 of this chapter, definition of "properly shredded garbage"). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

5. Any waters or wastes containing lead, chromium, copper, zinc, mercury, boron, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the superintendent for such materials.

6. Any waters or wastes containing odor producing substances, inert suspended solids, wastes with objectionable colors or noxious waters exceeding limits which may be established by the superintendent.

7. Any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

8. Quantities of flow, concentrations, or both, which constitute a "slug" as defined in section 9-3-1 of this chapter.

9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed.

10. Any waters or wastes containing BOD or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment works, except as may be permitted by contract between the city and any user which will provide for special charges, payment or provisions of treating and testing equipment in accordance with this chapter.

D. Actions By Superintendent: If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsections B and C of this section, and which, in the judgment of the superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

1. Reject the wastes.

2. Require pretreatment to an acceptable condition for discharge to the public sewers.

3. Require control over the quantities and rates of discharge. (Ord. 2004-11)

9-3-10: INTERCEPTORS AND CATCH BASINS:

A. Interceptors: Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, any flammable wastes, sand or other harmful ingredients, as specified in subsections 9-3-9B and C of this chapter; except, that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by the owner(s)' personnel must be performed by currently licensed waste disposal firms.

B. Catch Basins:

1. No person having charge of any building or other premises which drains into a public sewer shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within ten (10) days after notice in writing from the city, a person shall install a suitable and sufficient catch basin or waste trap, or if one already exists, clean out, repair or alter the same, and perform such other work as the superintendent may deem necessary to prevent any substance or matter passing into the public sewer which may cause a deposit or obstruction therein. In addition to any penalties that may be imposed for violating this subsection B1, if a person refuses or neglects to install a catch basin or waste trap or to clean out, repair, or alter the same, if one exists, for a period of five (5) days, the superintendent may cause such work to be done as deemed necessary at the expense of the owner or person having charge of the premises.

2. The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times a catch basin or waste trap in the building drain system to prevent grease, oil, dirt, or any mineral deposit from entering the public sewer system. (Ord. 2004-11)

9-3-11: PRETREATMENT OR FLOW EQUALIZATION:

A. Design And Installation: If the city permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city, in accordance with subsection D of this section.

B. Costs: The city will require payment to cover the added cost of handling the wastes not covered by existing taxes or sewer charges.

C. Maintenance Required: Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.

D. Contract To Receive Unusual Strength Sewage: No provision contained in this chapter shall be construed to prevent or prohibit a separate or special contract or agreement between the city and any user whereby waste and material of unusual strength, character or composition may be accepted by the city for treatment, subject to additional payment therefor by such user; provided, however, that such contract or agreement shall have the prior approval of the superintendent, and the payments for such services meet the requirements of city ordinances establishing the sewer charge system [1] ; and provided, that the national categorical pretreatment standards and the city NPDES and/or SDS permit limitation are not violated.

E. Diluting Discharges Prohibited: No user shall increase the use of process water or in any manner attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards or any state requirement. (Ord. 2004-11)

Notes

[1] 1. See article A of this chapter.

9-3-12: REPAIRS AND MAINTENANCE:

A. Repairs: Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of draining, the owner or person having charge of the service connection shall repair or cause such work to be done as the superintendent may direct. Each day after three (3) days that a person neglects or fails to so act shall constitute a separate violation of this subsection, and the superintendent may then cause the work to be done, and recover from the owner or agent the expense thereof, together with ten percent (10%) damages, by an action in the name of the city.

B. Responsibility For Maintenance Of Line: It shall be the duty and responsibility of every owner or occupant of property upon which a building sewer is placed to maintain the sewer line on his/her property. This maintenance shall include the responsibility of repairing any broken tile in said line and the responsibility for any cleanout or maintenance caused by obstructions in said line. All repair and restoration costs (including the street) shall be paid for by the owner. In addition, the owner or occupant will be responsible for cleanout or maintenance due to obstructions caused by said owner or occupant in the line from the main to the property line. In the event that the owner or occupant causes any city main to become plugged, he/she shall be responsible for reimbursing the city for costs incurred in clearing the obstruction. (Ord. 2004-11)

9-3-13: MEASUREMENTS, TESTS AND ANALYSES:

A. When required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the city. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

B. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods For The Examination Of Water And Wastewater", published by the American Public Health Association. Sampling methods, location, times, duration, and frequencies are to be determined on an individual basis subject to approval by the superintendent.

C. The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests, and analyses of waters or wastes to illustrate compliance with this chapter and any special condition for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at such times and in such manner as prescribed by the city. The owner shall bear the expense of all measurements, analysis and reporting required by the city. At such times as deemed necessary, the city reserves the right to take measurements and samples for analysis by an outside laboratory. (Ord. 2004-11)

9-3-14: TAMPERING WITH OR DAMAGE TO SYSTEM:

No person(s) shall maliciously, wilfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities or do any act obstructing or in any way interfering with the use of any sewer, or the flow of wastewater through any sewer. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct. (Ord. 2004-11)

9-3-15: POWERS AND AUTHORITY OF INSPECTORS:

A. Entry Powers:

1. The superintendent or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community systems in accordance with the provisions of this chapter.

2. The superintendent or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

B. Limitations On Requested Information: The superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelations to the public or of the information in question might result in an advantage to competitors.

C. Safety Precautions: While performing the necessary work on private properties, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage of its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation. (Ord. 2004-11)

9-3-16: VIOLATIONS; PENALTIES:

A. Notice Of Violation: Any person found to be violating any provision of this chapter shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

B. Misdemeanor Violation; Penalty: Any person who shall continue any violation beyond the time limit provided for in subsection A of this section shall be guilty of a misdemeanor and, on conviction thereof shall be fined in an amount as provided in section 1-4-1 of this code for each violation. Each day on which any such violation occurs shall be deemed a separate offense. A conviction shall not bar a later conviction for subsequent violations of this chapter.

C. Liability Of Violator; Costs Assessed:

1. Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

2. In addition to any penalties that may be imposed for violation of any provision of this chapter, the city may assess against any person the cost of repairing or restoring sewer or associated facilities damaged as a result of the discharge of prohibited wastes by such person and may collect such assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the city. (Ord. 2004-11)

ARTICLE A. SEWER USER CHARGES

SECTION:

9-3A-1: Purpose

9-3A-2: Definitions

9-3A-3: Application Of Provisions

9-3A-4: Establishment Of Unit Costs

9-3A-5: Computation Of Charges; Rendition And Payment Of Bills

9-3A-6: User Categories

9-3A-7: Determination Of Billable Flow, Loading And User Charge

9-3A-8: Approval Of Charges By Council; General Requirements

Notes

1 1. See also section 9-3-3 of this chapter.

9-3A-1: PURPOSE:
It is the purpose of this article to recover from users of city wastewater disposal system facilities, on an equitable basis, the share of the city facilities costs attributable to such users, and to provide funds for the operation and maintenance, debt service, replacement and improvements by the city. (Ord. 2004-16)

9-3A-2: DEFINITIONS:
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Terms defined in this section are incorporated by reference as part of this article.

CAPITAL COSTS: All reasonable and necessary costs and expenses incurred by the city in planning, designing, financing, and constructing disposal system facilities, including, but not limited to, costs and expenses for obtaining necessary permits, licenses, approvals and grants for design and construction costs, fees for legal and consulting services, or the acquisition of such facilities.

COMMERCIAL USER: All users of the system classified as industrial users in the "Standard Industrial Classification Manual", 1972, United States office of management and budget, as amended and supplemented, under divisions A, B, C, E and I, but who are excluded from that definition for the purposes of this article because they discharge primarily segregated domestic wastes, or wastes from sanitary conveniences. The classification shall not include such exempted users who are otherwise classified in this article as domestic users, governmental users, or institutional users.

CONTRACT USER: All users who have written contracts with the city to use the city sewer system or city wastewater treatment plant.

DEBT SERVICE: The principal and interest necessary to pay bonded indebtedness of wastewater treatment facilities owned or operated by the city. "Debt service" is distinct from annual operation, maintenance and replacement costs.

DEBT SERVICE CHARGE: The charge related to the principal and interest necessary to pay bonded indebtedness of wastewater treatment facilities owned or operated by the city. The "debt service charge" shall include a debt service connection charge and a debt service user charge.

DOMESTIC USER: Those establishments and related occupations, if any, which are generally considered domestic services and whose discharge consists solely of sanitary wastes. This category indicates single-family homes, townhouses, duplex units, condominiums, apartment units and mobile homes.

EQUIVALENT RESIDENTIAL UNIT: A unit of wastewater volume of two hundred seventy four (274) gallons per day at an approximate strength of two hundred fifty milligrams per liter (250 mg/l) of BOD_5 and two hundred fifty milligrams per liter (250 mg/l) of total suspended solids.

FLOW: The quantity of sewage expressed in gallons or cubic feet per twenty four (24) hours.

GENERAL MUNICIPAL FLOW: The total sewage flow discharged to the wastewater treatment facilities, including sanitary waste and infiltration, minus the flows from industrial users, other municipalities and contract users. "General municipal flow", based on the design of the wastewater treatment facilities, is further defined as flow containing five (5) day BOD concentrations not greater than two hundred fifty milligrams per liter (250 mg/l) and suspended solids concentrations not greater than two hundred fifty milligrams per liter (250 mg/l).

GENERAL MUNICIPAL USER: Any user discharging sewage into the general municipal flow other than industrial users, municipalities and other contract users. The term "general municipal user" includes domestic users, commercial users, institutional users, and governmental users which are not contract users.

GOVERNMENTAL USER: Includes those establishments whose function is the administration and/or execution of governmental programs, as well as the offices of executives, legislative bodies and agencies which provide general support services for government.

INDUSTRIAL USER:

A. Any nongovernmental user of the wastewater treatment facilities identified in the "Federal Standard Industrial Classification Manual", 1972, office of management and budget, as amended and supplemented, under the following divisions:

1. Agriculture, forestry and fishing.
2. Mining.
3. Manufacturing.
4. Transportation, communication, electric, gas and sanitary services.
5. Services.

B. A user in a division listed in this definition may be excluded from the category of "industrial user" and treated as a commercial user if the city determines it will primarily introduce domestic wastes or wastes from sanitary conveniences. The BOD and suspended solids loads from industrial users shall be based on the actual concentration of those constituents; except, that for industrial users with sewage containing BOD and suspended solids concentrations less than the concentrations as defined for general municipal flow, the charges shall be based on concentrations as defined for general municipal flow.

INSTITUTIONAL USER: Those establishments engaged in activities of a noneconomic nature, frequently being the performance of services

classified as a governmental or commercial user in this article.

LOAD: Quantities of sewage characteristics such as BOD, total suspended solids and other constituents as expressed in milligrams per liter or pounds per twenty four (24) hours.

OPERATION AND MAINTENANCE COSTS (O&M COSTS): All labor, equipment, materials and power required to operate and maintain the sewer utility sufficient for continuous, reliable service to the city users throughout the design or useful life, whichever is longer, of the facilities. "Maintenance" includes cleaning, lubricating, repairing and overhauling of wastewater equipment. "Operation" includes daily and other periodic control, inspection and adjustments to wastewater equipment, and sampling and analysis of wastewater.

REPLACEMENT COSTS: Costs related to expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performance during the service life of the city wastewater treatment facilities for which such facilities were designed and constructed. The term "operation and maintenance" includes replacement.

SEWER SERVICE CHARGE: The aggregate of all the charges, including the user charges, debt service charges, and other sewer related charges, that are billed periodically to users of city wastewater treatment facilities.

SIGNIFICANT INDUSTRIAL USER: Any industrial user which discharges sewage which constitutes greater than ten percent (10%) of the design flow or design pollutant loading of the wastewater treatment plant.

TSS: Denoting total suspended solids, means solids that either float on the surface of, or are in suspension in, water, sewage, or other liquid and which are removable by laboratory filtering in accordance with the latest edition of "Standard Methods For The Examination Of Water And Wastewater".

USER CHARGE: The charge levied on users of city wastewater disposal system facilities for the cost of operation and maintenance of such facilities. (Ord. 2004-16)

9-3A-3: APPLICATION OF PROVISIONS:
The user charges provided for in this article are hereby levied and assessed upon each lodging, parcel of land, building or premises having any connection with, or discharging either directly or indirectly into, the city sewer system. (Ord. 2004-16)

9-3A-4: ESTABLISHMENT OF UNIT COSTS:
The council shall annually determine and fix the unit costs for use of the city wastewater treatment facilities on the basis of flow, BOD, TSS and any other pollutants, taking into consideration the cost of treatment of such sewage and may increase or decrease such unit cost as often and in such amounts as may reasonably be required to accomplish the purposes of this article. (Ord. 2004-16)

9-3A-5: COMPUTATION OF CHARGES; RENDITION AND PAYMENT OF BILLS:
The city shall compute the amount due the city for sewer user charges and render a statement thereof, at periodic intervals, as directed by the council, to the owner or occupant of any premises using city wastewater disposal system facilities. All amounts due under this article shall be payable at the office of the city administrator or other designated location. (Ord. 2004-16)

9-3A-6: USER CATEGORIES:
A. Users of the city sewer utility shall be considered to belong to one of five (5) categories:

1. Domestic user.
2. Commercial user.
3. Institutional user.
4. Governmental user.
5. Industrial user.

B. The allocation of users to categories for the purposes of assessment of sewer use and debt service charges shall be the responsibility of the city administrator or designated representative. Allocation of users to categories shall be based in part upon the substantive intent of the definitions of these categories contained in this article. (Ord. 2004-16)

9-3A-7: DETERMINATION OF BILLABLE FLOW, LOADING AND USER CHARGE:
A. Basis: Each user shall pay operation, maintenance and replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, with the minimum rate for loadings of BOD and TSS being the rate established for a concentration of two hundred fifty milligrams per liter (250 mg/l) BOD and two hundred fifty milligrams per liter (250 mg/l) TSS (i.e., normal domestic strength wastewater). Those industrial users discharging segregated normal domestic strength wastewater only can be classified as commercial users for the purpose of rate determination.

B. User Charges For Normal Domestic Strength Users:

1. Calculation Of Billable Flows And Loadings: The charges assessed domestic users and those of other classes connected to the city water utility and discharging normal domestic strength wastewater shall be established proportionately according to billable wastewater volume. Billable wastewater volume shall be calculated as follows:

a. Measurement Of Wastewater Volume For Domestic Users:

(1) Domestic Users Connected To City Water Utility: Except as provided for in this article, billable wastewater volume for residential users shall be calculated on the basis of metered water usage. Metered water usage shall be determined by calculating a monthly average based on water consumption for the months of November, December, January, February and March. Usage in excess of the minimum rate will be billed on a unit cost of one thousand (1,000) gallons per month.

(2) Domestic Users Not Connected To City Water Utility: The charges assessed to residential users who are not connected to the city water utility shall be established as a flat rate per month based on the average water use of metered residential users in the community. The city reserves the right to require residential users to install water meters for the purpose of determining billable wastewater volume.

b. Measurement Of Wastewater Volume For Nondomestic Users: The charges assessed nondomestic users discharging normal domestic strength wastewater shall be established proportionately according to billable wastewater volume. Billable wastewater volume shall be calculated as follows: The billable wastewater volume of nondomestic users may be determined in the same manner as for residential users connected to the city water utility; except, that if the city determines that there are significant seasonal variations in the metered water usage of nonresidential users resulting in a proportionate increase or decrease in wastewater volume, then billable wastewater volume shall be calculated on the basis of monthly metered water usage recorded throughout the year, or calculated on the basis of wastewater flow meters. The city may, at its discretion, require nondomestic users to install, at the user's expense, a water meter, or such additional water meters or wastewater flow meters, as may be necessary to determine billable wastewater volume.

c. Determination Of Loadings For Normal Domestic Strength Users: The billable amounts of BOD and TSS will be calculated from the volume of metered water usage, as determined pursuant to this section, where the billable quantities will be those attributable to wastewater at a concentration of two hundred fifty milligrams per liter (250 mg/l) BOD and two hundred fifty milligrams per liter (250 mg/l) TSS (i.e., normal domestic strength wastewater).

d. Determination Of Loadings For Nondomestic Strength Users: The city may, at its discretion, require nondomestic users to install a sewage monitoring facility. Each industrial user required by the city to install and maintain sewage monitoring facilities shall submit to the city a monthly report of daily flow and BOD on a form approved by the city. This report shall be used for billing purposes and shall be submitted prior to the fifteenth day of the subsequent month. The city shall have the right to periodically or continuously inspect the monitoring facilities to measure, sample and analyze the industrial user's flow and to analyze the samples obtained by such user. In the event of any discrepancy between the flows or loads determined by the city and those determined by the industrial user, the values determined by the city shall be used for billing purposes.

2. Calculation Of Charge; Minimum Charge; Unmetered Users:

a. Calculation Of Charge: User charges for normal domestic users shall be calculated on a unit charge for each one thousand (1,000) gallons. However, under no circumstance will a user be billed less than the minimum charge.

b. Unmetered Users: Unmetered users shall be charged a flat fee calculated from the average domestic usage throughout the community.

c. Metered Users: The per month billable wastewater volume shall be an average of the metered water usage during the months of November, December, January, February, and March.

C. User Charges For Nondomestic Users:

1. Sewer service charges for users who discharge wastewater with concentrations greater than normal domestic strength or wastes of unusual character shall be calculated in proportion to the wastewater flow and loading at the treatment plant. No user shall be charged at a rate less than that of normal domestic strength wastewater.

2. The measurements of such wastes shall be conducted according to the latest edition of "Standard Methods For The Examination Of Water And Wastewater", in a manner acceptable to the city, as provided for in this article.

3. Unit costs for flow, BOD, TSS and P shall be calculated by apportioning the category B cost as follows, twenty percent (20%) to flow, thirty five percent (35%) to BOD, thirty five percent (35%) to TSS and ten percent (10%) to P, then dividing each cost so apportioned by the total estimated billing flow, BOD, TSS, and P, to be received at the wastewater treatment plan in that year.

Unit cost for flow per 1,000 gallons	$\frac{\text{0.20 (20\%) x annual cost for O, M \& R x 100C}}{\text{Annual wastewater flow}}$
Unit cost for BOD per lb. BOD	$\frac{\text{0.35 (35\%) x annual cost for O, M \& R}}{\text{Annual BOD to facility}}$
Unit cost for TSS per lb. TSS	$\frac{\text{0.35 (35\%) x annual cost for O, M \& R}}{\text{Annual TSS to facility}}$
Unit cost for P per lb. P	$\frac{\text{0.10 (10\%) x annual cost for O, M \& R}}{\text{Annual P to facility}}$

4. In addition to the charges provided for in this section, the city may impose a surcharge on any user based on some other pollutant loading factor, which exceeds general municipal flow standards. The city may require a contract between the city and any user exceeding the general municipal flow standard. (Ord. 2004-16)

9-3A-8: APPROVAL OF CHARGES BY COUNCIL; GENERAL REQUIREMENTS:
The proposed user charge system shall be submitted to the council for review and approval. Upon acceptance of the sewer utility budget by the council, the user charge rates shall be established by council ordinance. The user charge rates shall be established to meet the following general requirements:

A. Maintain the proportionate distribution of operation and maintenance and replacement costs among users and user classes.

B. Generate sufficient revenue to pay the total operation, maintenance and replacement costs necessary for proper operation, maintenance and replacement of the sewer utility.

C. Apply excess revenues collected from a class of users to the costs of operation, maintenance and replacement attributable to that class for the next year and adjust the user charges accordingly.

D. Calculate the user charge based on the flow and waste load estimated to be discharged to the sewer utility in the succeeding year, including infiltration and inflow. (Ord. 2004-16)

CHAPTER 4

PRIVATE SEWAGE DISPOSAL SYSTEMS [1]

SECTION:

9-4-1: Scope

9-4-2: Subsurface Sewage Treatment System (SSTS)

9-4-3: Sewage Removal And Discharge

9-4-4: Administration And Enforcement Officials

9-4-5: Misdemeanor Violation

9-4-6: Appeals

9-4-7: Liability For Sewage System

Notes

1 1. See also appendix A, sections 1000.16 and 4905.82B of this code.

9-4-1: SCOPE:
This chapter shall apply to all on-site sewage disposal systems in the City as of the effective date hereof and to all subsequently constructed sewage disposal systems. Sewer installation shall be regulated by all requirements of this chapter. All individual sewage disposal systems installed subsequent to the effective date hereof and all alterations, extensions and repairs to individual sewage disposal systems, irrespective of the date of original installation, shall be regulated in accordance with all of the requirements of this chapter. Any individual sewage disposal system or pertinent part thereof, regardless of the date of original installation, which is not located, constructed, installed or functioning in accordance with this chapter shall be so relocated, reconstructed, reinstalled or repaired as to comply with the requirements hereof. (Ord. 1993-7, 6-15-1993; amd. Ord. 2021-12, 10-4-2021)

9-4-2: SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS):
A. Where a public sewer is not available under the provision of9-3-4, the house or building sewer shall be connected to a subsurface sewage treatment system (SSTS) complying with the provision of this section. The provisions of Minnesota Rules chapter 7080-7083, subsurface sewage treatment systems program, as it may be amended, are hereby incorporated in this Code by reference and shall constitute the minimum standards under which an individual SSTS may be installed, operated and maintained.

B. Prior to commencement of construction of an SSTS of the house or building, the owner shall first obtain a written permit signed by the City's authorized representative.

C. The type, capacities, location, and layout of an SSTS shall comply with all requirements of Minnesota Rules chapter 7080, and applicable chapters of this Code.

D. The owner of the house or building shall operate and maintain the SSTS in a sanitary manner at all times and at no expense to the City.

E. Nothing in this section shall be construed to replace or supersede any additional requirements that may be imposed by the Minnesota Pollution Control Agency, the State Department of Health, or the other responsible federal, state, or local governmental authorities. (Ord. 2021-12, 10-4-2021)

9-4-3: SEWAGE REMOVAL AND DISCHARGE:
A. Unregulated Discharge Prohibited: No person shall discharge the contents of any privy, privy box, vault, sink, septic tank or cesspool anywhere in the City or into any other outdoor sewer installation or at any dump or any sanitary landfill, except at the locations approved by the Minnesota pollution control agency, under the terms and conditions set forth herein and in accordance with this section.

B. Transporting Sewage: No part of the contents of any sanitary sewage facility shall be transported into the City, nor shall the contents of any such facility be transported within or through the City unless it is removed and transported by means of an airtight apparatus, pneumatic or otherwise, so as to prevent the contents from being agitated or exposed to open air in the process of removal or transportation.

C. Tanks: Any tank, vehicle or other apparatus used in transporting the contents from any such facility must be maintained and operated in such a manner as to avoid the emission of offensive fumes or the spilling or loss of any unsanitary or offensive substance. (Ord. 1993-7, 6-15-1993; amd. Ord. 2021-12, 10-4-2021)

9-4-4: ADMINISTRATION AND ENFORCEMENT OFFICIALS:
A. City Clerk: The City Clerk shall be responsible for the administration and issuance of orders required by this chapter. The Clerk shall be empowered to cooperate with local and state personnel in the enforcement of this chapter and state regulations, rules and requirements relating to sewage disposal.

B. Building Official: The building official shall be responsible for the enforcement of the provisions of this chapter, including performance of investigation review, site and system inspection, compliance with chapter requirements, permit review and system design analysis on all systems. The building official may refer any design to the City Engineer for analysis if, in the building official's discretion, such analysis is required.

C. Delegation Of Duties: The City Council may delegate all provisions for administration and enforcement activities to other units of government where it is determined that funding and staffing are marginally adequate to ensure adherence to the requirements of this chapter and all other applicable rules and regulations. (Ord. 1993-7, 6-15-1993; amd. Ord. 2021-12, 10-4-2021)

9-4-5: MISDEMEANOR VIOLATION:
Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished pursuant to section 1-4-1 of this Code. Each day that any violation is continued shall constitute a separate offense. (Ord. 2017-01, 1-3-2017; amd. Ord. 2021-12, 10-4-2021)

9-4-6: APPEALS:
Appeals from the building official's decision and requests for variances as to any provisions of this chapter may be made to the City. The City Council may grant a variance to the strict terms or requirements of this chapter as it affects specific tracts of land if it finds:

A. It is shown by reason of topography or other physical conditions that strict compliance with requirements of this chapter could cause an exceptional and undue hardship to the enjoyment of a substantial property right.

B. By the granting of the variance, the spirit and intent of this chapter will not be adversely affected.

C. That the variance will not be injurious to the health and/or general welfare of:

1. The users of the system for which the variance is sought;

2. The adjacent property owners; and

3. The general community as a whole.

D. That the establishment, maintenance, or operation of the system as permitted by the variance will not be detrimental to or endanger the public health, safety or general welfare, and is not contrary to established standards, regulations, or ordinances of other governmental agencies. (Ord. 1993-7, 6-15-1993; amd. Ord. 2021-12, 10-4-2021)

9-4-7: LIABILITY FOR SEWAGE SYSTEM:
This chapter shall not relieve or lessen the responsibility or liability of any person owning, operating, controlling, or installing any sewage disposal system, or disposing of bulk sewage, for damage to persons or property or any other injury occasioned thereby. The City assumes no responsibility for the proper, safe, and efficient functioning and performance of sewage disposal systems installed, renovated, or maintained pursuant to the requirements contained herein. (Ord. 1993-7, 6-15-1993; amd. Ord. 2021-12, 10-4-2021)

CHAPTER 5

STORMWATER DRAINAGE UTILITY

SECTION:

9-5-1: Stormwater Drainage Utility Established

9-5-2: Storm Sewer Improvement Tax District

9-5-3: Operation And Enforcement

9-5-4: Connection Charge

9-5-5: User Fees; Bills For Service

9-5-6: Disposition Of Revenues

9-5-1: STORMWATER DRAINAGE UTILITY ESTABLISHED:
The municipal storm sewer system shall be operated as a public utility pursuant to Minnesota statutes section 444.075 et seq., and this chapter, from which revenues will be derived subject to the provisions of this chapter and Minnesota statutes. The stormwater drainage utility ("utility") will be part of the city utilities department and under the administration of the city administrator. (Ord. 1988-12)

9-5-2: STORM SEWER IMPROVEMENT TAX DISTRICT:
A. Authority: The council is authorized by Minnesota statutes chapter 444 to establish by ordinance a storm sewer improvement tax district within which the council may acquire, construct, reconstruct, extend, maintain and otherwise improve storm sewer systems and related facilities and within which the council may levy a tax on all taxable property therein to finance the cost of such improvements, including maintenance and the payment of principal and interest on obligations issued in making such improvements.

B. District Established: There is hereby established a storm sewer improvement tax district, the area of which district shall encompass the entire geographical city. (Ord. 1988-12)

9-5-3: OPERATION AND ENFORCEMENT:
All the provisions of this chapter, in accordance with the usual and customary procedures of the city, shall determine the operation and enforcement of the utility as established hereby. (Ord. 1988-12)

9-5-4: CONNECTION CHARGE:
A. Definition: The words "new construction", when used in this section, means any new building or structure constructed under a building permit issued by the city after December 31, 1989. (Ord. 1988-12; amd. 2005 Code)

B. Charge Established: No person shall, directly or indirectly, discharge, drain, run off, place or deposit, or permit the discharging, draining, running off, placing or depositing of storm or surface waters from his parcel of land on which new construction is to be erected into the municipal storm sewer system, including mains, holding areas and ponds, and other appurtenances and related facilities used for the collection and disposal of stormwater or surface water, without first paying a stormwater utility connection charge (the short title of such connection charge shall be "SWCON") at the time the building permit is issued. The amount of the SWCON shall, for each parcel of land subject thereto, be calculated in accordance with charges as established in section 3-1-3 of this code. (Ord. 2017-01, 1-3-2017)

9-5-5: USER FEES; BILLS FOR SERVICE:
A. Fees Established; Exemptions: Stormwater utility fees for parcels of land using the utility are hereby established. Such fees, as established in section 3-1-3 of this code, shall be examined by the city council and may be amended from time to time, upon advice of the city engineer (the short title of such fee shall be "SWUF"). All fees shall be just and equitable and in accordance with Minnesota statutes section 444.075. The following land uses are exempt from SWUF:

1. Public rights of way.

2. Vacant unimproved land with ground cover. (Ord. 2017-01, 1-3-2017)

B. Rendition Of Bills: Bills for the SWUF shall be made out by the city in accordance with usual and customary general billing practices for sanitary sewer service. All bills shall be payable at the city administrative office. Bills shall be rendered quarterly. The quarterly amount of the stormwater utility fund is as established by resolution of the city council. (Ord. 98-12; amd. 2005 Code)

C. Payment Of Bills; Delinquencies: Payments shall be made in accordance with the billing not later than the fifteenth day of the following month. A late charge as established in section 3-1-3 of this code will be charged if bills are not paid by the due date, subject to a minimum charge in an amount as established in section 3-1-3 of this code. If bills are not paid within thirty (30) days from the date of billing, they shall be deemed delinquent; in case of delinquency, mailed notice shall be sent; and after three (3) days following such mailing, civil action may be begun on behalf of the city for the collection of said SWUF. If such fee is not paid within sixty (60) days after due, the said unpaid fee, plus late charges, may be certified to the county auditor with the taxes against such property and shall be collected with other taxes on such property. The fee shall be deemed a charge against the owner, lessee and occupant of the property served. Such certification to the county auditor shall not preclude the city or its agents from recovery of such delinquent fee or charge, late charge and interest thereon, by other available remedies. (Ord. 2008-012, 12-15-2008; amd. Ord. 2017-01, 1-3-2017)

9-5-6: DISPOSITION OF REVENUES:
All revenues derived from the SWCON and the SWUF charges and fees shall be credited to the stormwater drainage utility fund. (Ord. 1988-12)

CHAPTER 6

SUMP PUMP, SURFACE WATER AND SWIMMING POOL DISCHARGES

SECTION:

9-6-1: Purpose

9-6-2: Unpolluted Waters Prohibited In Sanitary Sewer System

9-6-3: Inspections And Enforcement

9-6-4: Discharge Requirements

9-6-5: Escrow

9-6-1: PURPOSE:
The city council finds that the discharge of water from roof, surface, groundwater sump pump, footing tile or swimming pool or other natural precipitation into the city sanitary sewage system will, and has on numerous occasions in the past, flood and overload the sanitary sewage system to such an extent as to cause significant and grave damage to the waste treatment plant and sanitary sewer trunk system. Such damage is caused by the backup of sewage into the plant, private properties, and pressure damage to trunk lines. The city council, therefore, finds it essential to the minimization of damage to property and to meet Minnesota pollution control agency and city code requirements that the provisions of this chapter be strictly enforced to avoid emergencies in the future. (Ord. 2004-07, 11-1-2004)

9-6-2: UNPOLLUTED WATERS PROHIBITED IN SANITARY SEWER SYSTEM:
It shall be unlawful for any owner, occupant, or user of any premises to direct into or allow any stormwater, surface water, groundwater or water from commercial air conditioning systems to drain into the sanitary sewer system of the city. This includes: water from any roof, surface or ground sump pump, foundation drain, or swimming pool. (Ord. 2004-07, 11-1-2004)

9-6-3: INSPECTIONS AND ENFORCEMENT:
A. Inspection Required; Certificate Of Compliance: Every person owning improved real estate that discharges into the city sanitary sewer system shall allow an employee of the city or his designated representative to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. Properties found to be in compliance will receive a certificate of compliance at the time of inspection.

B. Noncompliance:

1. Within thirty (30) days of initial inspection, any person, firm, or corporation having a roof, surface, ground sump pump, foundation drain, or swimming pool and/or discharging into the sanitary sewer system shall disconnect and/or remove same.

2. Any disconnects or openings in the sanitary sewer shall be closed or repaired in an effective and workmanlike manner as approved by the water and wastewater superintendent or superintendent's designated agent.

3. Any person refusing to allow his property to be inspected shall immediately become subject to the surcharge hereinafter provided for.

4. Any property owner found to violate this chapter shall make the necessary changes to comply with this chapter within thirty (30) days of the initial inspection. (Ord. 2004-07, 11-1-2004)

5. A surcharge as established in section 3-1-3 of this code is hereby imposed and added to every sewer billing to property owners who are not in compliance with this chapter within thirty (30) days of initial inspection. This surcharge is in addition to any other penalties that may be incurred under this chapter. Should a single-family unit property owner found to be in compliance with this chapter and during a subsequent inspection found to have reconnected an illegal source to the sanitary sewer shall immediately become subject to this surcharge. (Ord. 2017-01, 1-3-2017)

C. Future Inspections: At any future time, the city may conduct random inspections if the city has reason to suspect that an illegal connection exists on a property to ensure compliance with this chapter. (Ord. 2004-07, 11-1-2004)

9-6-4: DISCHARGE REQUIREMENTS:
A. Discharge Line Required:

1. Dwellings and other buildings and structures which require a sump pump system to discharge excess water shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system except as provided herein. A permanent installation shall be one which provides for year round discharge capability to either the outside of the dwelling, building or structure, or is connected to the city storm sewer system or discharges to the street. It shall consist of a rigid discharge line without valving or quick connections for altering the path of discharge and shall include a check valve if connected to the city storm sewer line.

2. A sump pump and rigid pipe discharge connection to the outside shall be required on all new construction within the city where a groundwater drainage system is part of the construction plans.

B. Conveyance Of Sump Pump Discharge Waters: No residence shall be issued an occupancy permit without first having installed a discharge pipe from the sump pump discharge point at the exterior of the structure to a drain tile located in a utility easement located on the property or, if a stormwater pond or wetland is located on the property, to an at grade discharge point located no closer than ten feet (10') to such pond or wetland, provided the ground is contoured such that the sump pump waters are conveyed directly overland to the pond or wetland. Such discharge pipe shall be installed at least twelve inches (12") belowground; except, that such discharge pipe may be less than twelve inches (12") belowground where necessary in order for such pipe to discharge at grade. (Ord. 2004-07, 11-1-2004)

9-6-5: ESCROW:
In those circumstances where installation of a discharge pipe as required by this chapter is not reasonably possible due to the presence of frost in the ground, no occupancy permit shall be issued unless the entity to which the building permit was issued posts an escrow with the city in accordance with the requirements of the city. (Ord. 2004-07, 11-1-2004)

CHAPTER 7

STORMWATER DETENTION POND WATER FOR IRRIGATION PURPOSES

SECTION:

9-7-1: Use Of Pond Water

9-7-2: Licensing

9-7-1: USE OF POND WATER:
In order to conserve the area's drinking water supply and promote the recycling of existing water resources, residents of the city may, upon procurement of a license required by this chapter, expropriate water from city ponds to use for outdoor irrigation purposes. All such water usage shall comply with the requirements of this chapter. (Ord. 2017-01, 1-3-2017)

9-7-2: LICENSING:
A. The city building inspector may grant a license to one or more residents of the city to take pond water from ponds which the city either owns or has a drainage and utility easement over for use in irrigating properties adjacent to such ponds. The city building inspector may, but shall not be required to, grant such licenses after making the following findings:

1. The pond generally has adequate water to support the appropriation request.

2. The water can be expropriated without creating a nuisance or otherwise disturbing the enjoyment of neighboring properties.

3. No adverse impacts are expected to occur as a result of the expropriation.

4. The requested appropriation is not likely to create a health hazard.

5. The pumping equipment proposed to be used is sufficient for the purpose and will not disturb neighboring properties.

B. All licenses issued under this chapter shall be amendable and/or revocable by the city building inspector at any time for any reason. In addition, the city building inspector may temporarily prohibit or limit the expropriation of water from one or more ponds when the city building inspector determines that such action is in the best interest of the city or its residents.

C. All license holders shall comply with the following requirements, as well as any site specific requirements set forth by the city building inspector:

1. The license holder shall not draw a total of ten thousand (10,000) gallons or more from one or more ponds on any given day.

2. All pumps used to remove water from the ponds shall be freestanding or located in a structure that is not connected to the city water supply system.

3. No water pumped from the ponds shall enter and no pump or irrigation system shall in any way be connected to any structure that is connected to the city water supply system.

4. All water appropriated from city ponds shall be used solely for outdoor lawn and plant irrigation purposes.

5. All license holders shall comply with all water appropriation restrictions set forth by the city council from time to time.

6. Licenses shall be issued to individuals and shall not be transferable.

7. No water may be taken from any pond when its water level is at or below one foot (1') below its normal water level.

8. No pumps, electrical equipment or appurtenances other than a suction pipe, check valve and influent screen shall be located within the public drainage and/or utility easement in which the pond is located.

9. The suction pipe shall be buried below grade and the influent screen shall be below the normal water elevation.

10. The license holder shall be responsible for installing the suction pipe, check valve and screen in the pond.

11. The city shall not be liable for any damage that may occur to the system due to work or maintenance within the public drainage/utility easement.

D. No pond water appropriation license request shall be considered by the city until an application fee, as established in section 3-1-3 of this code, has been received by the city. No additional license fee shall apply. (Ord. 2017-01, 1-3-2017)

TITLE 10

BUILDING AND DEVELOPMENT REGULATIONS

CHAPTER 1

GENERAL BUILDING AND DEVELOPMENT REGULATIONS [1]

SECTION:

10-1-1: Certificate Of Occupancy For Commercial And Industrial Buildings

10-1-2: Site Improvement Performance Agreement And Surety

10-1-3: Improvements Or Escrow For New Residential Construction

10-1-4: Construction Sites Free Of Debris

Notes

[1] 1. See appendix A, chapter 1500 of this Code for site/building plan review.

10-1-1: CERTIFICATE OF OCCUPANCY FOR COMMERCIAL AND INDUSTRIAL BUILDINGS [1] :

A. Certificate Required; Scope: Except for farm buildings, no building or structure erected or moved, or that portion of an existing structure or building erected or moved, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the building official stating that the building or structure complies with all of the provisions of the zoning ordinance and applicable building codes adopted by the City. The provisions of this section shall apply to and include, without limitation, any change in the use, character of occupancy, occupancy classification or zoning classification of any structure, building or portion thereof. A certificate of occupancy shall be valid only for the use named therein.

B. Application For Certificate; Issuance: The certificate shall be applied for coincident with the application for a building permit, conditional use permit, and/or variance and shall be issued within ten (10) days after the building official shall have found the building or structure satisfactory and given final inspection. (Ord. 1988-5; amd. 2005 Code)

C. Fee: Applications for temporary certificate of occupancy shall be accompanied by a fee as established in section 3-1-3 of this Code. (Ord. 2018-01, 1-2-2018)

D. Certificate On Premises: It shall be the obligation of any person having a proprietary or tenancy interest in such building or structure affected to maintain or preserve said certificate of occupancy as a permanent record on the premises and available for inspection upon request by the City

Administrator or building official. Whosoever shall fail to so maintain such record is guilty of a misdemeanor.

E. Occupancy Prior To Issuance Of Certificate Prohibited: Whosoever shall use or occupy a building or structure for which a certificate of occupancy is required by this section before the certificate of occupancy has been issued, as provided herein, is guilty of a misdemeanor.

F. Misdemeanor Violation; Penalties: Any person violating any provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-4-1 of this Code. (Ord. 1988-5; amd. 2005 Code)

Notes

1 2. See also appendix A, chapter 700 of this Code.

10-1-2: SITE IMPROVEMENT PERFORMANCE AGREEMENT AND SURETY[1]:

A. Procedures Previously Adopted: The City has previously adopted provisions which provide for procedures and standards for effective City review of all developments within the City, including all multi-residential developments and commercial and industrial buildings or expansions of such existing buildings, and planned unit developments.

B. Performance Agreement Required: Upon City Council approval of the site plan and prior to the issuance of building permits or initiation of work on the proposed improvement or development, the developer shall execute a performance agreement setting out all site improvement items and terms of completion of said items. The performance agreement and any surety required therein must be approved by the City Attorney as to form.

C. Surety Requirements:

1. If a conditional use permit and/or variance is granted or approved coincident with final site plan approval, the city shall be provided with a surety guaranteeing compliance with the conditions thereof relating to any required installations. (Ord. 1988-6)

2. Any such surety may be by cash escrow, irrevocable letter of credit or certified check as approved by the city council. The security shall be noncancellable and shall be in such amount as set by the city council after receiving a report by the city engineer or from city staff on the estimated cost of labor and materials for the proposed improvement and development. The city shall hold the security until completion of the proposed improvements and development and until a certificate of occupancy indicating compliance with the approval, conditional use permit or variance and ordinances of the city has been issued by the city administrator or building official. (Ord. 1988-6; amd. 2005 Code)

3. Any surety required by the performance agreement shall be noncancellable and shall guarantee conformance and compliance with the conditions of the site plan approval, the performance agreement and the ordinances of the city.

4. The city shall hold the surety for such period of time as set forth in the performance agreement. The surety may only be released by the city council. Periodically, the amount of the surety may be reduced by the city council. Reduction and release actions will only be initialed after proper request has been made by the developer.

5. Failure to comply with the conditions of the site plan approval, the performance agreement or the ordinances of the city shall result in forfeiture of the surety to the extent necessary to achieve the project's total compliance with the approved site plan.

D. Inspections During Development:

1. Site Improvements: Following the issuance of final site plan approval by the city council, the city engineer shall specify those site improvement items requiring inspections and approval by the city.

2. Compliance With Overall Plan:

a. Following final plan approval of a site plan or a stage thereof, the city administrator shall, periodically until the completion of the development, review all permits issued, and construction undertaken, and compare actual development with the approved site plan.

b. If the city administrator finds that the development is not proceeding in accordance with the approved plan, the administrator shall immediately notify the council. (Ord. 1988-6)

c. Within thirty (30) days of such notice, the council shall either revoke the site plan approval or shall take such steps as it shall deem necessary to compel compliance with the final site plan as approved; or shall require the applicant or landowner to seek an amendment of the final site plan. (Ord. 1988-6; amd. 2005 Code)

Notes

1 1. See also sections 11-9-4 and 11-9-5 of this Code.

10-1-3: IMPROVEMENTS OR ESCROW FOR NEW RESIDENTIAL CONSTRUCTION:

A. Improvements Or Escrow Required Prior To Issuance Of Certificate Of Occupancy:

1. Prior to the issuance of a final certificate of occupancy for any newly constructed residential dwelling, the person or entity requesting the certificate of occupancy shall have complied with one of the following requirements:

a. Installed all improvements to the property upon which the dwelling is located as required by appendix A, subsections 1000.7B and 1200.4H of this code, the residential development standards as on file with the city administrator's office, all individual lot requirements contained in any applicable developer's agreement, and the requirements of title 9, chapter 6 of this code, and removed all silt fencing on the property; or

b. (1) Provides the city with a cash escrow in accordance with section3-1-3 of this code; and

(2) Enters into an escrow agreement with the city to install the improvements required in subsection A1a of this section by a date certain as specified by the city engineer, which agreement provides the city with the authority to enter upon the property to install said improvements using the money placed in escrow in the event the improvements are not installed by the date determined by the city engineer; and

(3) Provides and maintains adequate erosion control measures as determined by the city engineer until such time as all improvements required of the property pursuant to subsection A1a of this section have been installed.

2. The city requires that the developer post a cash escrow to pay for the city costs of processing the developer's proposed plat and EAW, and permit the city to draw upon said escrow to pay for said processing expenses as stated in the escrow agreement.

B. As Built Plans: The building permit applicant shall provide the city with an as built survey to be reviewed by the city engineer, unless otherwise determined by the city that the city engineer, at a fee provided in subsection D of this section, shall perform the survey.

C. Refund Of Escrow: Upon application by the person or company which established the escrow, and within thirty (30) days of certification by the city that all required improvements have been satisfactorily installed and that any silt fence on the property has been removed, said escrow amount shall be refunded without interest to the person or company depositing such escrow with the city.

D. Fees Required:

1. All persons or entities requesting a certificate of occupancy pursuant to subsection A1b of this section shall pay the city a nonrefundable inspection review fee in accordance with section 3-1-3 of this code for the processing of the escrow and escrow agreement, for one review inspection, and for the cost of reviewing the as built survey by the city engineer.

2. If a second review inspection is required, the person or entity requesting the certificate of occupancy shall pay reinspection fees in accordance with section 3-1-3 of this code prior to the performance of the second review inspection.

3. If a revised as built or lot survey is required, the person or entity requesting the certificate of occupancy shall pay an engineering review fee in accordance with section 3-1-3 of this code prior to the performance of the engineering review.

4. Said inspection review fee, reinspection fees and resurvey fee as established in section3-1-3 fo the Albertville City Code may be modified from time to time by ordinance amendment of the city council.

5. Fees to be escrowed are fees for sod, trees and administration of escrow.

6. Compliance fees and reinspection fees are due with the permit.

E. Application Of Provisions: This section shall apply to all residential dwelling units within the city which have not received a final certificate of occupancy at the effective date hereof. (Ord. 2004-08; amd. Ord. 2009-011, 4-6- 2009; Ord. 2017-01, 1-3-2017; Ord. 2019-13, 12-16-2019)

10-1-4: CONSTRUCTION SITES FREE OF DEBRIS:

A. Definitions: The following terms shall have the following meanings:

CITY: The city of Albertville.

CONSTRUCTION DEBRIS CONTAINER: A rigid, freestanding enclosure consisting of a solid metal bottom and solid metal sides constructed in such a manner that no gaps, holes or other spaces exist between the sides or between the bottom and sides, and which has a cover made of netting or a solid, rigid material which covers the entire top of the enclosure and does not allow materials from inside the enclosure to exit the enclosure when the cover is closed.

CONSTRUCTION MATERIALS: All materials of any type which are used in the construction of a house, building, or other structure, including, but not limited to, lumber, plastics, metal, asphalt and fiberglass shingles, fiberglass, vinyl, glass, ceramic, and other composite building materials.

CONSTRUCTION SITE: A property in the city on which a structure is being constructed upon which a temporary or final occupancy permit has not yet been issued.

DEBRIS: All excess construction materials, construction material shipping cartons, construction material packaging, and used construction materials which are present at a construction site and which are not secured in a "construction debris container" as defined in this subsection.

B. Sites Free Of Debris: All construction sites shall be free of debris at all times.

C. Construction Debris Containers:

1. Use Required: All construction sites shall have a construction debris container located on site, and all construction debris shall be contained within such container at all times.

2. Containers To Be Covered: All construction debris containers shall be securely covered at all times (the cover may be removed only for such time as is necessary to deposit or remove construction debris from the container) such that no debris is able to leave the enclosure by force of wind, gravity or other event.

D. Refusal Of Inspection; Stop Work Order:

1. The city building official may refuse to inspect any property and may issue a stop work order on any property which:

a. Contains debris that is not in a fully enclosed construction debris container;

b. Does not have a construction debris container located on site; or

c. Has a construction debris container which does not meet the requirements of this section or which is not securely covered.

2. Upon compliance with this section, any stop work order so issued may be rescinded, and inspections may resume. (Ord. 2003-16, 8-18-2003)

E. Misdemeanor Violation; Penalty: Any person or entity in violation of this section shall be guilty of a misdemeanor, punishable by a fine as provided in section 1-4-1 of this code, plus the city's costs of prosecution. (Ord. 2003-16, 8-18-2003; amd. 2005 Code)

CHAPTER 2

BUILDING CODE

SECTION:

10-2-1: Code Adopted

10-2-2: Application, Administration And Enforcement

10-2-3: Permits And Fees

10-2-4: Violation; Penalties

10-2-1: CODE ADOPTED:

A. Adopted By Reference: The Minnesota State Building Code ("Building Code"), as adopted by the Commissioner of Labor and Industry

pursuant to Minnesota Statutes sections 326B.101 to 326B.194, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this chapter. The Minnesota State Building Code is hereby incorporated in this chapter as if fully set out herein.

B. Building Code Optional Chapters: The Minnesota State Building Code, established pursuant to Minnesota Statutes sections 326B.101 to 326B.194, allows the Municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the Building Code for the City:

1. Minnesota Rules part 1306.0020, subpart 3 is hereby adopted. (Ord. 2007-07, 7-16-2007)

10-2-2: APPLICATION, ADMINISTRATION AND ENFORCEMENT:
The application, administration, and enforcement of the Building Code shall be in accordance with the Minnesota State Building Code. The Building Code shall be enforced by the Minnesota certified building official designated by the City Council to administer the Building Code. (Ord. 2007-07, 7-16-2007)

10-2-3: PERMITS AND FEES:
The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes section 326B.153, subdivision 1. (Ord. 2018-01, 1-2-2018)

A. Permit Fees: Permit fees shall be assessed for work governed by this Code in accordance with the fee schedule as established in section 3-1-3 of this Code. In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with Minnesota Statutes section 326B.148. Where permit fees are based on valuation, the minimum valuation shall be calculated using the most current Minnesota Department of Labor and Industry building valuation data.

B. Plan Review Fee: Plan review fee as established in section 3-1-3 of this Code.

C. Residential Building Permits: Residential single- and two- family dwelling building permits shall be charged a lot survey and as built survey review fee, as established in section 3-1-3 of this Code, under building and development regulations.

D. Nonresidential And Multi-Family Building Permits: Commercial, industrial, multiple-family, and institutional building permits shall be charged a site and building plan review fee, as established in section 3-1-3 of this Code, under appendix A zoning ordinance.

E. Other Building Permits And Related Inspections: Other building permit or Fire Code related inspections as established in section 3-1-3 of this Code. (Ord. 2017-01, 1-3-2017)

10-2-4: VIOLATION; PENALTIES:
Any person violating any provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-4-1 of this Code. (Ord. 2007-07, 7-16-2007)

CHAPTER 3

FIRE CODE

SECTION:

10-3-1: Code And State Regulations Adopted

10-3-2: Definition

10-3-3: Bureau Of Fire Prevention

10-3-4: Permit Required For Certain Activities

10-3-5: Storage Of Dangerous Substances

10-3-6: Permit May Be Required For New Materials, Processes, Or Occupancies

10-3-7: Barbecues; Deck Fires

10-3-8: Key Box And As Built Plans

10-3-9: Fire Safety Inspections

10-3-10: Appeals

10-3-11: Violations; Penalties

10-3-1: CODE AND STATE REGULATIONS ADOPTED:
A. International Fire Code And Standards: There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, that certain code and standards known as the 2000 international fire code, and the same are hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling within the limits of the city. (Ord. 2000-12, 9-5-2000; amd. 2005 Code)

B. Amendments To Code And Standards; State Regulations: In addition to the foregoing, the city also adopts by reference, as if fully set forth herein, any and all amendments and changes to said fire code and standards and any other matters relative thereto set forth in Minnesota state rules and regulations of the department of public safety, fire marshal division, 11 MCAR sections 1.50101 to 1.5156. (Ord. 2000-12, 9-5-2000)

10-3-2: DEFINITION:
The term "jurisdiction", as used in the international fire code, shall mean the city of Albertville. (Ord. 2000-12, 9-5-2000; amd. 2005 Code)

10-3-3: BUREAU OF FIRE PREVENTION:
The international fire code shall be enforced by the bureau of fire prevention which is hereby established in the fire department of the city and which shall be operated under the supervision of the chief of the fire department for the city. Said chief shall be in charge of the bureau of fire prevention until such time as the city council shall deem it advisable and shall appoint a separate chief in charge of the bureau of fire prevention. The chief of the Albertville fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. (Ord. 2000-12, 9-5-2000; amd. 2005 Code)

10-3-4: PERMIT REQUIRED FOR CERTAIN ACTIVITIES:
A permit shall be obtained in advance from the bureau of fire prevention for the activities described in section 4.101 of the international fire code as adopted by reference in subsection 10-3-1A of this chapter. (Ord. 2000-12, 9-5-2000; amd. 2005 Code)

10-3-5: STORAGE OF DANGEROUS SUBSTANCES[1]:
The limits referred to in sections 82/105(a) and 77/106(b) of the international fire code restricting the storage of liquefied petroleum gases and the storage of explosives and blasting agents, respectively, together with the limits for the storage of flammable or combustible liquids in outside aboveground tanks are hereby established as being the entire area lying within the city unless a special permit is issued by the city. (Ord. 2000-12, 9-5-2000; amd. 2005 Code)

Notes

1 1. See also appendix A, section 1000.18 of this code.

10-3-6: PERMIT MAY BE REQUIRED FOR NEW MATERIALS, PROCESSES, OR OCCUPANCIES:
The city administrator and the chief of the fire department shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies for which permits are required in addition to those now enumerated in the international fire code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons. (Ord. 2000-12, 9-5-2000; amd. 2005 Code)

10-3-7: BARBECUES; DECK FIRES:
A. In any structure containing two (2) or more vertically stacked residential units or that contains two (2) or more residential units sharing, as a means of ingress or egress, a common hallway, no person shall kindle, maintain, cause or use any fire, open flame or electric heating element on any balcony or deck above the ground, nor shall such activity occur on any patio set in and level with the ground, unless such activity occurs at least fifteen feet (15') from all portions of all such units in such a structure.

B. No person shall keep or use any charcoal, nor any lighter fluid, natural gas, fuel, torch, barbecue grill or other similar heating or lighting chemical or device in any place where fire, open flame or electric heating element is prohibited in subsection A of this section.

C. Barbecue grills that burn natural gas are prohibited in any place where prohibited in subsection A of this section unless such a grill is permanently mounted, plumbed to the structure's natural gas supply, and set at least six feet (6') at all points from all combustibles and all portions of all such residential units. (Ord. 2000-12, 9-5-2000)

10-3-8: KEY BOX AND AS BUILT PLANS:
A. Key Box: When access to or within a multi-housing building of three (3) or more units or other multi-housing, commercial or industrial structure, or an area is unduly difficult because of secured openings, or where immediate access is necessary for lifesaving or firefighting purposes, the Chief of the Fire Department may require a key box to be installed in an accessible location. The key box shall be a type approved by the Chief of the Fire Department and shall contain keys to gain necessary access as required by the Chief of the Fire Department. A fee as established in section 3-1-3 of this Code will be required. (Ord. 2018-01, 1-2-2018)

B. As Built Plans: No owner of any building hereafter erected or remodeled shall use, maintain or keep the same for commercial, industrial or multi-housing (other than two-unit dwellings) purposes unless there is on file in the Office of the City Clerk an eight and one-half inch by eleven inch ($8\frac{1}{2}$" x 11") reproducible mylar as built print of each floor of the building. The City Clerk shall not issue a certificate of occupancy for any new or remodeled commercial, industrial or multi-housing building (other than two-unit dwellings) unless such mylars shall be on file. (Ord. 2000-12, 9-5-2000)

10-3-9: FIRE SAFETY INSPECTIONS:
A. All new construction in which a fire suppression system or a fire alarm system is installed shall be inspected by the City's Fire Chief or Fire Marshal and shall satisfactorily pass such inspection prior to the issuance of an occupancy permit for such structure. The owner of any building so inspected shall pay a fee as established in section 3-1-3 of this Code for such inspection.

B. The owner of any building which has been the subject of a fire safety inspection for which the City's Fire Chief or Fire Marshal has to return to the building to reinspect any violation of the Fire Code found on a previous inspection shall pay a fire inspection fee as established in section 3-1-3 of this Code per visit by the Fire Chief or Fire Marshal, commencing with the third return inspection addressing the same violation. There shall be no charge for the initial inspection plus two (2) return inspections addressing the same issue. (Ord. 2018-01, 1-2-2018)

10-3-10: APPEALS:
Whenever the Chief of the Fire Department disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the International Fire Code do not apply or that the true intent and meaning of said Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief to the City Council within thirty (30) days from the date of the decision appealed. (Ord. 2013-002, 3-4-2013)

10-3-11: VIOLATIONS; PENALTIES:
A. Any person who shall violate any of the provisions of the Code or standards hereby adopted, or who shall fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement or specifications or plans submitted and approved from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor.

B. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

C. The application of the above penalties shall not be held to prevent the enforced removal of prohibited conditions. (Ord. 2013-002, 3-4-2013)

CHAPTER 4

BUILDING MAINTENANCE AND OCCUPANCY

SECTION:

10-4-1: Purpose And Objectives

10-4-2: Application Of Provisions

10-4-3: Definitions

10-4-4: International Property Maintenance Code Adopted

10-4-5: [Reserved]

10-4-6: [Reserved]

10-4-7: [Reserved]

10-4-8: [Reserved]

10-4-9: [Reserved]

10-4-10: Rental Unit Owners; Licensing Requirements

10-4-11: Administration And Enforcement Officials; Inspections

10-4-12: Buildings Unfit For Human Habitation; Vacated Buildings

10-4-13: Compliance Orders

10-4-14: Penalties

10-4-15: Alternative Sanctions

10-4-1: PURPOSE AND OBJECTIVES:

A. The purpose of this chapter is to protect the public health, safety and the general welfare of the people of the city. These general objectives include, among others, the following:

1. To protect the character and stability of all buildings and property within the city.

2. To correct and prevent conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying buildings within the city.

3. To provide minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of occupants of buildings.

4. To provide minimum standards for light and ventilation, necessary to the health and safety of occupants of buildings.

5. To prevent the overcrowding of dwellings by providing minimum space standards per occupant for each dwelling unit.

6. To provide minimum standards for the maintenance of existing buildings, and to thus prevent slums and blight.

7. To preserve the value of land and buildings throughout the city.

B. With respect to rental disputes, and except as otherwise specifically provided by the terms of this chapter, it is not the intention of the city council to intrude upon the fair and accepted contractual relationship between tenant and landlord. The city council does not intend to intervene as an advocate of either party, nor to act as arbiter, nor to be receptive to complaints from tenant or landlord which are not specifically and clearly relevant to the provisions of this chapter. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of city government. Neither, in enacting this chapter, is it the intention of the city council to interfere or permit interference with legal rights to personal privacy. (Ord. 1998-1, 3-2-1998)

10-4-2: APPLICATION OF PROVISIONS:

Every building, as well as its premises, and all occupied premises with the city shall conform to the requirements of this chapter, irrespective of when such building may have been constructed, altered or repaired. (Ord. 1998-1, 3-2-1998)

10-4-3: DEFINITIONS:

Whenever the words "dwelling", "dwelling unit", "premises", "building" or "structure" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof". The following definitions shall apply in the interpretation and enforcement of this chapter:

ACCESSORY STRUCTURE: A structure subordinate to the main or principal building which is not used nor authorized to be used for living or sleeping by human occupants and which is located on or partially on the premises.

APPROVED: Acceptable to the city and meeting all applicable codes.

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.

COMPLIANCE OFFICIAL: The zoning administrator/building official and/or designated agents authorized to administer and enforce this chapter.

DWELLING: A building, or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including one-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels and motels.

DWELLING UNIT: A single residential accommodation which is arranged, designed, used or, if vacant, intended for use exclusively as a domicile for one family. Where a private garage is structurally attached, it shall be considered as part of the building in which the dwelling unit is located.

FAMILY: Any of the following definitions shall apply:

A. A person or persons related by blood, marriage, or adoption, together with his or their domestic servants or gratuitous guests, maintaining a common household in a dwelling unit.

B. Group or foster care of not more than six (6) wards or clients by an authorized person or persons, related by blood, marriage, or adoption, together with his or their domestic servants or gratuitous guests, all maintaining a common household in a dwelling unit approved and certified by the appropriate public agency.

C. A group of not more than five (5) persons not related by blood, marriage or adoption, maintaining a common household in a dwelling unit.

FLUSH WATER CLOSET: An approved toilet, with a bowl and trap made in one piece, which is connected to the city water and sewer system or other approved water supply and sewer system.

GARBAGE: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

HABITABLE BUILDING: Any building or part thereof that meets minimum standards for use as a home or place of abode by one or more persons.

HABITABLE ROOM: A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding

bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements (those without required ventilation, required electric outlets and required exit facilities), pantries, utility rooms of less than fifty (50) square feet of floor space; foyers; communicating corridors; stairways; closets; storage spaces; and workshops, hobby and recreation areas in parts of the structure below ground level or in attics.

HEATED WATER: Water heated to a temperature of not less than one hundred twenty degrees Fahrenheit (120°F), or such lesser temperature required by government authority, measured at faucet outlet.

KITCHEN: A space which contains a sink with counter working space, adequate space for installing cooking and refrigeration equipment, and adequate space for the storage of cooking utensils.

MULTIPLE-FAMILY DWELLING: A dwelling or portion thereof containing three (3) or more dwelling units.

NONRESIDENTIAL BUILDING: All other buildings or structures other than dwellings or dwelling units.

OCCUPANT: Any person (including owner or operator) occupying any structure, building or part thereof, dwelling, dwelling unit, rooming unit or premises.

OPERATOR: The owner or agent who has charge, care, control or management of a building or part thereof.

OWNER: A person, agent, firm, or corporation having a legal or equitable interest in the property.

PERMISSIBLE OCCUPANT LOAD: The maximum number of persons permitted to occupy a building or space within a building.

PERSON: An individual, firm, partnership, association, corporation or joint venture organization of any kind.

PLUMBING: All of the following supplied facilities and equipment in a building: gas pipes, gas burning equipment, water pipes, steam pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drain, vents, and any other similar fixtures and the installation thereof, together with all connection to water, sewer and gas lines.

PREMISES: A platted lot or part thereof or unplatted parcel of land, either unoccupied or occupied by any structure thereon.

PUBLIC CORRIDOR: A hall, corridor or passageway for providing egress from an occupied area to a public way and not within the exclusive control of one occupant.

REFUSE: All putrescible and nonputrescible waste solids, including garbage and rubbish.

RENTAL DWELLING OR DWELLING UNIT: A dwelling or dwelling unit let for rent or lease.

RENTER: A person or organization that holds or has use of property by payment of rent and/or is not the owner of record.

REPAIR: To restore to a sound and acceptable state of operation, serviceability or appearance.

RODENT HARBORAGE: Any place where rodents can live, nest or seek shelter.

ROOMING UNIT: Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking and eating purposes.

RUBBISH: Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, grass and shrubbery clippings, wood, glass, brick, plaster, bedding, crockery and similar materials.

SAFETY: The condition of being reasonably free from danger and hazards which may cause accidents or disease.

STRUCTURE: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUBSTANDARD DWELLING: Any dwelling which does not conform to the minimum standards established by city ordinances.

SUPPLIED: Paid for, furnished by, provided by or under the control of the owner, operator, or agent of a building. (Ord. 1998-1, 3-2-1998; amd. Ord. 2016-11, 12-5-2016)

10-4-4: INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED:

A. Adoption: The International Property Maintenance Code, 2015 Edition, published by the International Code Council, Inc., is hereby adopted as if set out in full in this section, with the additions, insertions, deletions and changes as set forth below.

B. Revisions: The following sections of the International Property Maintenance Code, 2015 addition are revised as follows:

1. Section 101.1: This Subsection is amended to read:

Title. These regulations shall be known as the International Property Maintenance Code of the City of Albertville hereinafter referred to as "this code."

2. Section 102.3: This subsection is amended to read:

Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Minnesota Building Code, Minnesota Existing Building Code, Minnesota Energy Conservation Code, Minnesota Fire Code, Minnesota Fuel Gas Code, Minnesota Mechanical Code, Minnesota Residential Code, Minnesota Plumbing Code and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Albertville Zoning Code.

3. Section 102.8: This subsection is amended to read:

Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the person appointed by the City Council and deputies.

4. Section 103.5: This subsection is amended to read:

Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the section 3-1-3 of Albertville Zoning Code.

5. Section 112.4: This subsection is amended to read:

Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine in an amount as defined in section 3-1-3 or section 1-4-1 as

applicable of the Albertville Zoning Code.

6. Section 201.3: This subsection is amended to read:

Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, Minnesota Plumbing Code, International Residential Code, International Zoning Code or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

7. Section 302.2: This subsection shall be deleted in its entirety and substituted with the following:

Grading and Drainage. During the period of May through October, every yard, court, passageway, and other portions of the premises on which a building stands shall be graded and drained so as to be free of standing water.

8. Section 302.4: This subsection is amended to read:

Weeds. Premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches in height. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

9. Section 302.8: This subsection is amended to read:

Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes and in compliance with Albertville Zoning Code.

10. Section 302.10: Add the following section and language entirely:

Snow And Ice Removal. Every occupant of a dwelling containing a single dwelling unit and the owner of a multiple-family dwelling or a nonresidential building shall be responsible for the removal of snow and ice from parking lots, driveways, steps and walkways on the premises. Individual snowfalls of three inches (3") or more, or successive snowfalls accumulating to a depth of three inches (3"), shall be removed from parking lots and driveways within twenty four (24) hours after cessation of the snowfall. Individual snowfalls of one inch (1") or more, or successive snowfalls accumulating to a depth of one inch (1"), shall be removed from steps and walkways within eight (8) hours after cessation of the snowfall.

11. Section 302.11: Add the following section and language entirely:

Yards/Landscaping. The owner of the building shall be responsible for providing and maintaining the yards. Every yard of a premises on which a building stands shall be provided with lawn or combined ground cover of vegetation, garden, hedges, shrubbery, and related decorative materials, and such yard shall be maintained consistent with prevailing community standards. Nonresidential sites shall be maintained in accordance with an approved city landscape plan and shall be supplied with an irrigation system.

12. Section 303.2: Delete this section in its entirety. Refer to Zoning Ordinance 1000.5 in the Albertville Zoning Code.

13. Section 304.14: This subsection is amended to read:

Insect screens. During the period from May to October, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

14. Section 304.18.1: This subsection shall be deleted in its entirety and substituted with the following:

Door Locks. No owner shall occupy nor let to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling or dwelling unit are equipped with safe, functioning locking devices. Multiple-family dwellings shall be furnished with door locks as follows:

1. Building Entrances: For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multiple-family dwellings constructed after January 1, 1995, an approved security system shall be maintained for each multiple-family building to control access. The security system shall consist of locked building entrance or foyer doors, and locked doors leading from hallways into individual dwelling units. Dead-bolt type doors shall be provided with lever knobs (or doorknobs) on the inside of building entrance doors and with key cylinders on the outside of building entrance doors. Building entrance door latches shall be of a type that are permanently locked from the outside and locked from the inside.

2. Interior Dwelling Unit Entrances: Every door that is designed to provide ingress or egress for a dwelling unit within a multiple-family building shall be equipped with an approved lock that has a deadlocking bolt that cannot be retracted by end pressure; provided, however, that such door shall be openable from the inside without the use of a key or any special knowledge or effort.

15. Section 307.1: This subsection is amended to read:

General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have guardrails. Residential and Commercial handrails shall be not less than 34 inches (863 mm) in height or more than 38 inches (965 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Residential guardrails shall be a minimum of 36 inches (914 mm) in height and commercial guardrails shall be a minimum of 42 inches (1,066 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

16. Section 308.3.1: This subsection is amended to read: Garbage facilities. The owner of every dwelling shall supply an approved leakproof, covered, outside garbage container.

17. Section 308.3.3: Add the following section and language entirely:

Location.

1. For location of garbage containers for residential reference zoning ordinance 1000.14A.

2. For location of garbage containers for commercial, industrial, institutional or residential structures with more than four units reference zoning ordinance 1000.14B.

18. Section 309: This section shall be deleted in its entirety and substituted with the following:

Pest Control.

1. Pest Extermination: Every occupant of a dwelling containing a single dwelling unit or an occupant of a nonresidential building containing a single unit shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit containing more than one dwelling unit or an occupant of a nonresidential building containing more than one unit shall be responsible for the extermination whenever his unit is the only one infested. Notwithstanding, however, whenever infestations caused by the failure of the owner to maintain a building in a reasonable rodentproof or reasonable verminproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the units in any building, extermination thereof shall be the responsibility of the owner. Whenever extermination is the responsibility of the owner, the extermination must be performed by a licensed pest control contractor.

2. Rodents:

a. No occupant of a building shall accumulate boxes, lumber, scrap metal, or any similar materials in such a manner that may provide a rodent harborage in or about any dwelling unit or building. Stored materials shall be stacked neatly.

b. No owner of a building shall accumulate or permit the accumulation of boxes, lumber, scrap metal, or any other similar materials in such a manner that may provide a rodent harborage in or about shared or public areas of a building or its premises. Materials stored by the owner or permitted to be stored by the owner shall be stacked neatly.

c. No owner or occupant of a building shall store, place or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.

19. Section 502.5: This subsection is amended to read:

Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the Minnesota Plumbing Code. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

20. Section 505.1: This subsection is amended to read:

General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Minnesota Plumbing Code.

21. Section 602.2: This subsection is amended to read:

Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the Minnesota Plumbing Code. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

22. Section 602.3: This subsection shall be deleted in its entirety and substituted with the following:

Minimum Heating Capability And Maintenance. In every dwelling unit or rooming unit, when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least sixty eight degrees Fahrenheit (68°F), or such lesser temperature required by government authority, shall be maintained at a distance of three feet (3') above the floor and three feet (3') from exterior walls in all habitable rooms, bathrooms, and water closet compartments from September through May. Nonresidential buildings shall meet state regulations and statute requirements.

23. Section 602.4: This subsection is amended to read:

Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September to May to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

24. Section 604.1 - 604.3: This subsection shall be deleted in its entirety and substituted with the following:

Electric Service, Outlets And Fixtures. Every dwelling unit and all public and common areas shall be supplied with electric service, functioning overcurrent protection devices, electric outlets, and electric fixtures which are properly installed, which shall be maintained in good and safe working condition, and which shall be connected to a source of electric power in a manner prescribed by the ordinances, rules, and regulations of the city and by the laws of the state. The minimum capacity of such electric service and the minimum number of electric outlets and fixtures shall be as follows:

1. Dwellings containing one (1) or two (2) dwelling units shall have at least the equivalent of sixty (60) ampere, 3-wire electric service per dwelling unit.

2. Dwelling units shall have at least one branch electric circuit for each six hundred (600) square feet of dwelling unit floor area.

3. Every habitable room shall have at least one floor or wall type electric convenience outlet for each sixty (60) square feet or fraction thereof of total floor area and, in no case, less than two (2) such electric outlets; provided, however, that one ceiling or wall type fixture, may be supplied in lieu of one required electric outlet.

4. Every water closet compartment, bathroom, kitchen, laundry room, and furnace room shall contain at least one supplied ceiling or wall type electric light fixture, and every bathroom, kitchen, and laundry room shall contain at least one electric convenience outlet.

5. Every public corridor and stairway in every multiple-family dwelling shall be adequately lighted by natural or electric light at all times at one foot-candle at floor level, so as to provide effective illumination in all parts thereof. Every public corridor and stairway in structures containing not more than two (2) dwelling units may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full time lighting.

6. A convenient switch or equivalent device for turning on a light in each dwelling unit shall be located near the point of entrance to such unit.

(Ord. 1998-1, 3-2-1998; amd. 2005 Code; Ord. 2019-09, 12-2-2019)

10-4-5: [RESERVED]:

10-4-6: [RESERVED]:

10-4-7:[RESERVED]:

10-4-8: [RESERVED]:

10-4-9: [RESERVED]:

10-4-10: RENTAL UNIT OWNERS; LICENSING REQUIREMENTS:

A. License Required: No person shall operate a rental dwelling without first having obtained a license to do so from the city as hereinafter provided except for the following:

1. Property which has been sold and the previous owner is renting from the new owner for a time not to exceed ninety (90) days from the date of closing.

2. Property that is owner occupied, but the owner is renting out a room to a boarder.

3. Property that is currently under a contract for deed and is occupied by the contract for deed vendee.

The city may require evidence that the property owner qualifies under one of these exceptions.

B. Expiration And Renewal Of License: Each such operating license shall be issued annually and shall expire on April 30. License renewals shall be filed at least ninety (90) days prior to license expiration date.

C. Inspection Required Prior To Application Submittal: No application for an initial or renewal license shall be submitted to the city council until the compliance official has verified that the required biennial inspection has been completed and that all life, health and safety violations or discrepancies have been corrected.

D. Fees:

1. License Fees:

a. License fees, as set forth in section 3-1-3 of this code, shall be due ninety (90) days prior to the license application date; in the cases of new, unlicensed dwellings, license fees shall be due upon issuance of the certificate of occupancy.

b. A delinquency penalty of five percent (5%) of the license fee for each day of operation without a valid license shall be charged operators of rental dwellings. Once issued, a license is nontransferable, and the licensee shall not be entitled to a refund of any license fee upon revocation or suspension; however, the licensee shall be entitled to a license fee refund, prorated monthly, upon proof of transfer of legal control or ownership.

2. Inspection Fees: A fee, as set forth in section 3-1-3 of this code, shall be charged for all reinspections necessary after the first reinspection. The reinspection fee(s) will be payable at the time of license renewal for the property, in the case of rental housing, and at the time of recertification of occupancy for nonresidential properties.

E. Application For License Or Renewal:

1. License application or renewal shall be made by the owner of rental units or his legally constituted agent. Application forms may be acquired from and subsequently filed with the compliance official. The applicant shall supply:

a. Name, address, and telephone number of dwelling owner; owning partners if a partnership; corporate officers if a corporation.

b. Name, address and telephone number of designated resident agent, if any.

c. Name, address, and telephone number of vendee, if the dwelling is being sold through a contract for deed.

d. Legal address of the dwelling.

e. Number of dwelling units within the dwelling.

f. Description of the procedure through which tenant inquiries and complaints are to be processed.

2. Every person holding an operating license shall give notice to the compliance official within five (5) business days after any change of this information. Notice of transfer of ownership shall be as described in subsection J of this section.

F. Resident Agent Required: No operating license shall be issued or renewed for a nonresident owner of rental dwelling units unless such owner designates in writing to the compliance official the name of his resident agent who is responsible for maintenance and upkeep and who is legally constituted and empowered to receive service of notice of violation of the provisions of the city ordinances, to receive orders and to institute remedial action to effect such orders and to accept all service of process pursuant to law. The compliance official shall be notified in writing of any change of resident agent.

G. Conformance With Laws: No operating license shall be issued or renewed unless the rental dwelling and its premises conform to the ordinances of the city and the laws of the state.

H. Inspection Condition: No operating license shall be issued or renewed unless the owner of the rental units agrees in his application to permit inspections pursuant to subsection 10-4-11A of this chapter.

I. Posting Of License: Every licensee of a multiple dwelling shall cause to be conspicuously posted in the main entryway or other conspicuous location therein the current license for the respective multiple dwelling.

J. Nontransferability Of License: No operating license shall be transferable to another person or to another rental dwelling. Every person holding an operating license shall give notice in writing to the compliance official within five (5) business days after having legally transferred or otherwise disposed of the legal control of any licensed rental dwelling. Such notice shall include the name and address of the person succeeding to the ownership or control of such rental dwelling or dwellings.

K. Occupancy Register Required:

1. Dwellings:

a. Every owner of a licensed rental dwelling containing three (3) or more dwelling units shall keep, or cause to be kept, a current register of occupancy for each dwelling unit which provides the following information:

(1) Dwelling unit address.

(2) Number of bedrooms in dwelling unit.

(3) Names of adult occupants and number of adults and children (under 18 years of age) currently occupying the dwelling units.

(4) Dates renters occupied and vacated dwelling units.

(5) A chronological list of complaints and requests for repair by dwelling unit occupants, which complaints and requests are related to the provisions of this chapter.

(6) A similar chronological list of all corrections made in response to such requests and complaints.

b. Such register shall be made available for viewing or copying by the compliance official at all reasonable times.

L. Conduct On Licensed Premises:

1. Prohibited Conduct: It shall be the responsibility of the licensee to see that persons occupying the licensed premises conduct themselves in such a manner as not to cause the premises to be disorderly. For purposes of this subsection, a premises is disorderly at which any of the following activities occur:

a. Violation of laws relating to public nuisances (including, but not limited to, title 5, chapter 5 of this code).

b. Violation of laws relating to the possession of controlled substances as defined in Minnesota statutes section 152.01, subdivision 4.

c. Violation of laws relating to the sale of intoxicating liquor or 3.2 percent malt liquor .

d. Violation of laws relating to gambling.

e. Violation of laws relating to "prostitution" as defined in Minnesota statutes section 609.321, subdivision 9, or acts relating to prostitution.

f. Violation of laws relating to unlawful use or possession of a firearm (including, but not limited to, Minnesota statutes sections 609.66, subdivision 1a, 609.67 and 624.713).

g. Violation of section 3-5-1 of this code (relating to burglary and safety alarm fees and administration).

h. Violation of laws relating to disorderly conduct.

i. Violation of laws relating to the possession, sale, or receipt of stolen property.

j. Violation of laws relating to obstruction of the legal process.

k. Violation of laws relating to fireworks.

l. Acts of violence or threats of violence (including, but not limited to, discharge of firearms, prostitution, intimidation, or any other act that otherwise jeopardizes someone's health, safety, or welfare).

2. Consequences Of Violations:

a. Upon determination by the zoning administrator that a licensed premises was used in a disorderly manner, as described in subsection L1 of this section, the zoning administrator shall give notice to the licensee of the violation and direct the licensee to take steps to prevent further violations.

b. If another instance of disorderly use of the licensed premises occurs within twelve (12) months of an incident for which a notice in subsection L2a of this section was given, the zoning administrator shall notify the licensee of the violation and shall also require the licensee to submit a written report of the actions taken, and proposed to be taken, by the licensee to prevent further disorderly use of the premises. This written report shall be submitted to the zoning administrator within five (5) days of receipt of the notice of disorderly use of the premises and shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding three (3) months.

c. If another instance of disorderly use of the licensed premises occurs within twelve (12) months after any two (2) previous instances of disorderly use for which notices were given to the licensee pursuant to this subsection, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this subsection shall be initiated by the zoning administrator, who shall give to the licensee written notice of a hearing before the city council to consider such denial, revocation, suspension, or nonrenewal. Such written notice shall specify all violations of this subsection, and shall state the date, time, place and purpose of the hearing. The hearing shall be held no less than ten (10) days and no more than thirty (30) days after giving such notice. Following the hearing, the council may deny, revoke, suspend or decline to renew the license for all or any part of the licensed premises or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this subsection.

3. Adverse License Action During Eviction Proceedings: No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detailer) or within thirty (30) days of notice given by the licensee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to adverse license action however, unless they are diligently pursued by the licensee. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this subsection may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures which will prevent further instances of disorderly conduct.

4. Determination Of Disorderly Conduct: A determination that the licensed premises have been used in a disorderly manner as described in subsection L1 of this section shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this subsection.

5. Notices: All notices given by the city under this subsection shall be personally served on the licensee, sent by registered mail to the licensee's last known address or, if neither method of service effects notice, by posting on a conspicuous place on the licensed premises.

6. Enforcement Actions Not Exclusive: Enforcement actions provided in this subsection shall not be exclusive, and the city council may take any action with respect to a licensee, a tenant, or the licensed premises as is authorized by this code or state law.

M. Suspension Or Revocation Of License: Every operating license issued under the provisions of this chapter is subject to suspension or revocation by the city council should the licensed owner or his duly authorized resident agent fail to operate or maintain licensed rental dwellings and units therein consistent with the provisions of the ordinances of the city and the laws of the state. In the event that an operating license is suspended or revoked by the city council for just cause, it shall be unlawful for the owner or his duly authorized agent to thereafter permit any new occupancies of vacant or thereafter vacated rental units until such time as a valid operating license may be restored by the city council. Any person violating this provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 10-4-14 of this chapter. (Ord. 1998-1, 3-2-1998; amd. 2005 Code; Ord. 2010-005, 8-16-2010; Ord. 2016-11, 12-5-2016; Ord. 2017-01, 1-3-2017; Ord. 2023-07, 7-17-2023)

Notes

1 1. See title 4, chapter 1 of this code.

10-4-11: ADMINISTRATION AND ENFORCEMENT OFFICIALS; INSPECTIONS:

A. Officials Designated; Conduct Of Inspections: The compliance official shall administer and enforce the provisions of this chapter and is hereby

authorized to cause inspections on a scheduled basis for rental dwelling units and other buildings when reason exists to believe that a violation of this chapter has been or is being committed. Inspections will be performed at a minimum of every two (2) years. Inspections will also be performed as required by subsection 10-4-10H of this chapter. Inspections shall be conducted during reasonable daylight hours, and the compliance official shall present evidence of official capacity to the occupant in charge of a respective dwelling unit. (Ord. 1998-1, 3-2-1998; amd. 2005 Code)

B. Access Restrictions: Any owner, occupant, or other person in charge of a building may refuse to permit free access and entry to the structure or premises under his control for inspection pursuant to this chapter, whereupon the compliance official may seek a court order authorizing such inspection. (Ord. 1998-1, 3-2-1998)

10-4-12: BUILDINGS UNFIT FOR HUMAN HABITATION; VACATED BUILDINGS[1]:

A. Determination And Declaration Of Unfit Building:

1. Any building, or portion thereof, which is damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent infested, or which lacks provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety or welfare of the occupants or of the public may be declared unfit for human habitation. The compliance official shall order same vacated within a reasonable time and shall post a placard on same indicating that it is unfit for human habitation, and any operating license previously issued for such dwelling shall be revoked.

2. It shall be unlawful for such building or portion thereof to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the compliance official. It shall be unlawful for any person to deface or remove the declaration from any such building.

B. Secure Unfit And Vacated Buildings: The owner of any building, or portion thereof, which has been declared unfit for human habitation, or which is otherwise vacant for a period of sixty (60) days or more, shall make same safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance. Any vacant building open at doors or windows, if unguarded, shall be deemed to be a hazard to the health, safety and welfare of the public and a public nuisance within the meaning of this chapter and shall be made safe and secure immediately.

C. Hazardous Building Declaration: In the event that a building has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the building may be declared a hazardous building and treated consistent with the provisions of Minnesota statutes. (Ord. 1998-1, 3-2-1998)

Notes

1 1. See section 5-1-7 of this code and chapter 6 of this title for demolition provisions.

10-4-13: COMPLIANCE ORDERS:

A. Issuance; Contents And Requirements: Whenever the compliance official determines that any building or portion thereof, or the premises surrounding any of these, fails to meet the provisions of this chapter, a compliance order setting forth the violations of this chapter and ordering the owner, occupant, operator, or agent to correct such violations shall be issued. This compliance order shall:

1. Be in writing.

2. Describe the location and nature of the violations of this chapter.

3. Establish a reasonable time for the correction of such violations and notify of appeal recourse.

4. Be served upon the owner or agent or occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner or agent, or upon any such occupant, if a copy thereof is:

a. Served upon owner, agent or occupant personally; or

b. Sent by registered mail to his last known address; or

c. Upon failure to effect notice through subsections A4a and A4b of this section, posted at a conspicuous place in or about the building, or portion thereof, which is affected by the notice.

B. Right Of Appeal: When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this chapter, such person may appeal the compliance order to the city council sitting as a board of appeals. Such appeals must be in writing, must specify the grounds for the appeal, must be accompanied by a filing fee set forth per council resolution, in cash or cashier's check, and must be filed with the city clerk within five (5) business days after service of the compliance order. The filing of an appeal shall stay all proceedings in the furtherance of the action appealed from, unless such a stay would cause imminent peril to life, health, or property.

C. Board Of Appeals Decision: Upon at least five (5) business days' notice to the appellant of the time and place for hearing the appeal, and within thirty (30) days after said appeal is filed, the board of appeals shall hold a hearing thereon, taking into consideration any advice and recommendation from the advisory planning commission. The board of appeals may reverse, modify, or affirm, in whole or in part, the compliance order, and may order return of all or part of the filing fee if the appeal is upheld. (Ord. 1998-1, 3-2-1998)

D. Transfer Of Ownership Restrictions: It shall be unlawful for the owner of any building, or portion thereof, upon whom a pending compliance order has been served, to sell, transfer, mortgage, lease or otherwise dispose thereof to another person until the provisions of the violation tag or compliance order have been complied with, unless such owner shall furnish to the grantee, lessee, or mortgagee a true copy of any notice of violation or compliance order and shall obtain and possess a receipt of acknowledgment. Anyone securing an interest in the building, or portion thereof, who has received notice of the existence of a violation tag or compliance order shall be bound by same without further service of notice and shall be liable to all penalties and procedures provided by this chapter.

E. Failure To Comply; Penalties: Any person who fails to comply with a compliance order after right of appeal has expired, and any person who fails to comply with a modified compliance order within the time set therein, upon conviction therefor, shall be punished as provided in section 10-4-14 of this chapter. (Ord. 1998-1, 3-2-1998; amd. 2005 Code)

F. Remedy By City; Costs A Lien: Upon failure to comply with a compliance order within the time set therein and no appeal having been taken, or upon failure to comply with a modified compliance order within the time set therein, the criminal penalty established hereunder notwithstanding, the city council may cause the cited deficiency to be remedied as set forth in section 3-1-3 of this code. The cost of such remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by Minnesota statutes chapter 429, but the assessment shall be payable in a single installment. (Ord. 1998-1, 3-2-1998; amd. Ord. 2017-01, 1-3-2017)

10-4-14: PENALTIES:

Any person violating any of the provisions of this chapter, by doing any act or omitting to do any act which constitutes a breach of any section of this

chapter, shall, upon conviction thereof by lawful authority, be punished as provided in section 1-4-1 of this code, together with the costs of prosecution. No provision of this chapter designating the duties of any official or employee of the city shall be so construed as to make such official or employee liable for the penalty provided in this section because of failure to perform such duty, unless the intention of the city council to impose such penalty on such official or employee is specifically and clearly expressed in the section creating the duty. (Ord. 1998-1, 3-2-1998; amd. 2005 Code)

10-4-15: ALTERNATIVE SANCTIONS:
Notwithstanding the availability of the compliance procedures and the penalties of this chapter, whenever the compliance official determines that any building, or portion thereof, or the premises surrounding any of these fails to meet the requirements set forth in this chapter, the compliance official may issue a violation tag summoning the responsible person into court, or request the issuance of a criminal complaint and arrest warrant. (Ord. 1998-1, 3-2-1998)

CHAPTER 5

NUMBERING BUILDINGS

SECTION:

10-5-1: Address Numbers Required

10-5-2: Specifications And Placement

10-5-3: Petty Misdemeanor Violation; Penalty

10-5-1: ADDRESS NUMBERS REQUIRED [1] :
It is hereby required that all houses, business establishments and other occupied buildings have address numbers placed on them, conforming to the master address numbering system of the city. (Ord. 1979-4, 7-2-1979)

Notes

1 1. See also subsection 10-7-5E of this title.

10-5-2: SPECIFICATIONS AND PLACEMENT:
The numbers shall be at least four inches (4") in height, shall have a color which contrasts with the surface they are mounted on, and shall be placed on the front or in the area of said houses, business establishments and other occupied buildings so that same can be seen from the fronting street. (Ord. 1979-4, 7-2-1979; amd. 2005 Code)

10-5-3: PETTY MISDEMEANOR VIOLATION; PENALTY:
Violation of this chapter shall constitute a petty misdemeanor and shall be punishable by a fine pursuant to section 1-4-3 of this code. (Ord. 2017-01, 1-3-2017; amd. Ord. 2019-13, 12-16-2019)

CHAPTER 6

DEMOLITION OF DANGEROUS BUILDINGS [1]

SECTION:

10-6-1: Purpose

10-6-2: Demolition Order Procedures

10-6-3: Forms

Notes

1 1. See section 5-1-7 of this code and section 10-4-12 of this title for additional provisions regarding dangerous buildings.

10-6-1: PURPOSE:
By law, the city is obligated to eliminate the public hazards to the public safety and health caused by dangerous or hazardous structures and conditions. To this end, the city attempts to reduce such hazards through the issuance of demolition orders, when appropriate, through the city attorney's office. To promote cooperation and understanding of this process, as well as provide for an orderly set of procedures, the council has directed the preparation of this policy. (Res. 1990-2, 5-21-1990)

10-6-2: DEMOLITION ORDER PROCEDURES:
A. Request For Inspection: Whenever a city official learns of a hazardous structure within the city, the building inspection department will be contacted and the city official will request an inspection of the structure. (Res. 1990-2, 5-21-1990; amd. 2005 Code)

B. Inspection Of Property; Report And Discussion With Owner: The building official will inspect the property and fill out a "demolition order-building official's report" commenting about the overall condition of the structure and take photographs of the site. The official shall attempt to informally discuss his inspection findings with the property owner at this time.

C. Determinations And Actions: If the building official's report demonstrates that the structure fits the legal and building code definition of a "hazardous building", as stated in Minnesota statutes section 463.15, subdivision 3, and poses a potential public hazard, subsections D through G of this section will be initiated. If the building is determined not to be hazardous, the building official will take necessary actions to remedy noted deficiencies and file his report, together with other documents on the subject property, for future reference.

D. Notice Of Dangerous Condition; Time For Compliance: The property owner, owner of record or lien holder will be contacted by letter to advise him of the city's concern that the building be repaired in accordance with applicable codes. A thirty (30) day period will be given to the property owner to provide time to resolve the matter informally without court action. At the end of the thirty (30) day period, the building official will reinspect

to determine whether further action is necessary.

E. Failure To Comply; Information To City Attorney: If the thirty (30) day period expires without substantial improvement or demolition taking place, the building official's report, together with pictures and a copy of the letter submitted to the property owner, will be sent to the city attorney's office for the preparation of a resolution and demolition order for city council consideration. (Res. 1990-2, 5-21-1990)

F. Council Agenda Item: The item will be scheduled on the city council's agenda and the council shall be supplied, together with a cover memorandum summarizing the conditions of the demolition order, as well as any special circumstances that exist, a resolution, demolition order, building official's report, pictures and a copy of the letter originally received by the property owner.

G. Implementation Of Demolition Order: Upon adoption of the resolution, the order will be signed by the mayor and administrator and forwarded to the city attorney's office with a copy submitted to the building inspection department for the initiation of proceedings according to statute. (Res. 1990-2, 5-21-1990; amd. 2005 Code)

10-6-3: FORMS:
In implementing the policy set out in section10-6-2 of this chapter, the city staff and council will utilize forms substantially as attached to resolution 1990-2 and marked exhibit A, pages 1 through 4. (Res. 1990-2, 5-21-1990)

CHAPTER 7

SIGN REGULATIONS

SECTION:

10-7-1: Purpose And Intent

10-7-2: Definitions

10-7-3: Nonconforming Signs

10-7-4: Prohibited Signs

10-7-5: General Provisions

10-7-6: District Regulations

10-7-7: Special Sign Standards

10-7-8: Permit Requirements

10-7-9: Violations; Penalties

10-7-1: PURPOSE AND INTENT:
A. Purpose: This chapter is established to protect and promote health, safety, general welfare and order within the city of Albertville through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the type, number, size, structure, location, height, lighting, erection, use and/or display of devices, signs or symbols serving as a visual communication media to persons situated within or upon public rights of way or private properties. The provisions of this chapter are intended to encourage opportunity for effective, orderly communication by reducing annoyances, confusion and hazards resulting from unnecessary and/or indiscriminate use of communication facilities.

B. Objectives:

1. To establish standards which permit businesses a reasonable and equitable opportunity to advertise.

2. To preserve and promote civic beauty and prohibit signs which would detract from this objective because of number, size, shape, height, location, condition, cluttering or illumination.

3. To ensure that signs do not create safety hazards.

4. To preserve and protect property values.

5. Allow signage and communication to direct traffic on both public streets and private property. (Ord. 2016-03, 5-2-2016)

10-7-2: DEFINITIONS:
For the purpose of this chapter, the terms defined in this section shall have the meanings herein given them:

ADJACENT AREA: For the purpose of subsection 10-7-7A of this chapter, adjacent area shall be defined as a strip of land that is immediately adjacent and parallel to Interstate 94 through Albertville and meets both of the following criteria:

A. The adjacent area shall only include land parcels or lots that directly abut the Interstate 94 right of way, or city owned right of way intended for future interstate access improvements, otherwise known as CSAH 19/Interstate 94 and CSAH 37/Interstate 94 interchange improvements. Parcels acquired solely for drainage and utility or ponding purposes shall not be considered an adjacent area. Parcels that do not directly abut the aforementioned rights of way are not within the adjacent area.

B. The adjacent area shall be limited to a strip of land four hundred feet (400') in width measured from the midpoint of the center median between the opposing traffic lanes of Interstate 94 and extending out either sides of Interstate 94 (see graphic below).

BANNERS: Any attention getting devices which resemble flags and are of a paper, cloth or plastic or plasticlike consistency.

BILLBOARD: A sign, bulletin board, changeable copy sign, or poster panel located in the "adjacent area", as defined by this section, which is used to advertise products, goods, services, ideas, or noncommercial speech which are not exclusively related to the premises or owner of the property on which the billboard is located.

BILLBOARD AREA OR SIGN AREA: That portion of the sign face of a billboard or sign which includes the border and trim thereof, but excludes the base and apron supports and other structural members. If a billboard or sign is constructed so that the faces are not constructed back to back, the angle shall not exceed ninety degrees (90°). If said angle is greater than ninety degrees (90°), the total area of both sides added together shall not exceed the maximum allowable billboard or sign area.

CAMPAIGN SIGNS: Any sign that meets the provisions of Minnesota state statute 211B.045.

CHANGEABLE COPY SIGN: A sign or portion thereof that has a reader board for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects not consisting of an illumination device and may be changed or rearranged manually or

mechanically with characters, illustrations, letters or numbers that can be changed or rearranged without altering the face or surface of the sign structure. Changeable copy signs shall also include the following:

A. Changeable Copy Sign, Electronic: A sign or portion thereof that displays electronic, nonpictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or objects. Electronic changeable copy signs do not include official signs.

B. Electronic Graphic Display Sign: A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixalization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

C. Video Display Sign: A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames that gives the illusion of motion, including, but not limited to, the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

COUNTY STATE AID HIGHWAYS OR CSAH: A road that is established, located, constructed, reconstructed, improved and maintained as a public highway by the county and is so designated a county state aid road.

DOUBLE FACE SIGN: A sign displaying information on both sides.

ERECT: To construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way to bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of an outdoor billboard.

FLASHING SIGN: A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts and creates the illusion of intermittent flashing light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling or sparkling.

GRADE OF SIGN: The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the sign and a line ten feet (10') from the sign.

GROUND SIGN: A sign placed upon or supported by the ground independently of the main building or structure on the property. Pylon signs, monument signs, signs on accessory structures, and other freestanding signs shall be considered "ground signs".

ILLUMINATED SIGN: A sign which has characters, letters, figures, designs or outlines illuminated by electric lights or tubes, or by other artificial light directed to the sign or by internal illumination.

INTERSTATE HIGHWAY: Any highway at any time officially designated as a part of the national system of interstate and defense highways by the commissioner of transportation and approved by the appropriate authority of the federal government.

LOGO: Any letter, character, or symbol used to represent an entire word or group of words denoting the name, trade or purpose of any business.

MAINTAIN: To allow to exist.

MOVING SIGN: A sign which revolves, rotates, has any moving parts, or gives the illusion of motion.

MULTIVISION SIGN: Any sign composed in whole or part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time one of two (2) or more images.

OFF PREMISES SIGNS: A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off premises sign.

ON PREMISES SIGNS: A sign that is located on property that is the premises, property or site of the use identified or advertised in the sign.

PORTABLE SIGN: A movable sign not fixed to a building or the ground (i.e., pulled on a trailer vehicle).

PROJECTING SIGN: A sign which is affixed to a building and which projects from the building wall a distance greater than twelve inches (12").

PUBLIC NOTICES: Official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

PYLON SIGN: A freestanding sign erected upon no more than two (2) pedestals, posts or shafts. A pylon sign is a ground sign.

READER BOARD SIGN: A sign with separate inset letters and symbols or changeable copy which can be easily removed and which are periodically changed.

RESIDENTIAL SPECIAL EVENT: A special activity occurring on a residential lot for a duration not to exceed seven (7) days.

ROOF SIGN: A sign which is located above the eaves or coping line.

ROTATING SIGN: A sign or portion of a sign which in any physical part or in total turns about on an axis, rotates, revolves or is otherwise in motion, including, without limitation, a multivision sign.

SHIMMERING SIGN: A sign which reflects an oscillating, sometimes distorted, visual image.

SIGN: A name, identification, description, display, illustration, structure, or device which is affixed to, or painted, or represented directly or indirectly upon a building or other outdoor surface or a piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business.

SIGN HEIGHT: The height of a sign shall be computed as to the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

SIGN SETBACK: The shortest distance between the property or public right of way line and the surface or main supporting structure of a sign.

SIGN STRUCTURE: The supports, foundations, uprights, bracing and framework for a sign, including the sign area.

SPECIAL SIGN: Any sign that is a billboard, temporary sign, or banner.

TEMPORARY SIGN: A sign which is erected for a limited time and/or special purpose.

WALL SIGN: A sign which is affixed to the exterior wall of a building and which does not project more than twelve inches (12") from the surface to which it is attached.

WINDOW SIGN: A sign affixed to a window or located inside a window surface legible to the general public. (Ord. 2016-03, 5-2-2016)

10-7-3: NONCONFORMING SIGNS:

A. The following are nonconforming signs:

1. Prohibited signs.

2. All other signs not prohibited that do not conform to the provisions of this chapter.

B. General provisions governing nonconforming signs:

1. Continuance: A nonconforming sign lawfully existing upon the effective date hereof may be continued at the size and in the manner existing upon such date.

2. Nonconforming Sign Maintenance And Repair: Nothing in this code shall be construed as relieving the owner or user of a legal nonconforming sign of which the legal nonconforming sign is located from the provisions of this chapter regarding safety, maintenance, and repair of signs, provided however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or sign area in any way which makes it more nonconforming or the sign shall lose its legal nonconforming status.

3. Damaged Signs: If at any time a nonconforming sign shall be damaged or destroyed to the extent of more than fifty percent (50%) of its fair market value, said value to be determined by the city, it may be reestablished to its prior size and form, but not expanded, if the property owner applies for a sign building permit within one hundred eighty (180) days of the damage event. If no sign building permit is applied for within the specified time period, then without further action by the council, the sign shall be subject to all the regulations specified by this code for the district in which such land and buildings are located. Any sign which is damaged to an extent of less than fifty percent (50%) of its fair market value may be restored to its former extent if it is reconstructed within twelve (12) months after the date of said damage. Estimate of the extent of damage or destruction shall be made by the building official. (Ord. 2016-03, 5-2-2016)

10-7-4: PROHIBITED SIGNS:

A. The following signs are prohibited in all zoning districts in the city of Albertville:

1. Flashing Or Moving Signs: No flashing signs, rotating or moving signs, animated signs, signs with moving lights, or creating the illusion of movement shall be permitted.

2. Painted Wall Signs: No sign which is painted directly upon a wall surface shall be permitted.

3. Obsolete And Off Premises Signs: No sign shall be permitted which advertises a business which is not being presently conducted on the premises on which the sign is located, except billboards, as provided for in section 10-7-7 of this chapter, and except any privately owned recreational establishment having a gross open space area within the city greater than eighty (80) acres, where such open space is an integral part of the business, may have one directional sign not to exceed thirty two (32) square feet in size identifying the name of the establishment with one directional arrow. Said sign shall be in conformance with this chapter. Said directional sign shall not be erected or maintained in the city except on property abutting a county road.

4. Signs Obstructing Accessways Or Windows: No sign shall physically obstruct any required accessway or window in such a manner as to create a safety hazard.

5. Signs Obstructing Traffic: No exterior sign or sign located in the interior of a building but visible through a window shall be maintained at any location where, by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.

6. Signs On Natural Features Or Utility Poles: Signs on trees or shrubs, or which are painted or drawn upon rocks or natural features, or on public utility poles.

7. Unsafe Signs: Signs which are structurally unsafe, in disrepair, or are abandoned.

8. Roof Signs: Roof signs located directly on a building roof or projecting over or from a building roof.

9. Signs Mounted On Vehicles: Signs mounted on vehicles or trailers with the exception of trailer reader signs, except temporary portable signs as permitted under section 10-7-7 of this chapter. (Ord. 2016-03, 5-2-2016)

10-7-5: GENERAL PROVISIONS:

All signs hereafter painted, constructed, erected, remodeled, relocated or expanded shall comply with the following standards:

A. Application Of Building And Electrical Codes: All signs shall be wired to conform to the electrical code of the state of Minnesota. Sign structures shall be designed to provide a thirty (30) psf snow load and a thirty (30) psf wind pressure. All signs allowed by permit shall be installed and maintained in conformance with Minnesota state building and electrical codes, as may be amended.

B. Maintenance Requirements: All signs, including electrical wiring, supporting structures, guywires or chains, shall be properly maintained and kept in a safe condition.

C. Illuminated Signs: Signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park. Any illuminated sign located on a lot adjacent to, within two hundred feet (200') of, or across the street from, any single-family residential district, which sign is visible from such single- family residential district, shall not be illuminated at any time between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M., when the use is not open for business.

D. Glare: In all districts, any lighting used to illuminate an off street parking area, yard or other structure shall be arranged to deflect light away from any adjoining residential zone or from the public streets. Direct or sky reflected glare, where from floodlights or from high temperature processes such as welding or combustion, shall not be directed into any other property. The source of light shall be hooded or controlled. Bare incandescent light bulbs shall not be permitted in view of adjacent property or right of way. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (0.4) foot-candle (meter reading), as measured from the residential property. Any light or combination of lights which cast light on a public street shall not exceed one foot- candle as measured from the centerline of the street.

E. Identifiable Address 1 : Every principal building shall be identified with an address containing the street number(s), which shall be readable

from the nearest adjacent roadway serving the premises. The size of the numbering shall not exceed two (2) square feet.

F. Obsolete Signs: Any sign requiring a permit in a commercial, industrial, PUD, or public zoning district, now or hereafter existing, which no longer advertises or identifies a bona fide business conducted, or a service rendered, or a product sold, shall be removed by the owner, agent, or person having the beneficial use and/or control of the building or structure upon which the sign may be found within ten (10) days after written notice from the city official.

G. Signs Affecting Traffic: Signs shall not create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words or colors which might be construed as traffic controls, such as "stop", "caution", "warning", unless the sign is intended to direct traffic on the premises.

H. Sign Location/Setbacks:

1. No signs other than governmental signs shall be erected or placed within a public right of way.

2. No freestanding sign structure shall be closer than five feet (5') from any property line. When the bottom of the sign face of a freestanding sign is fifteen feet (15') or higher above grade, the sign face may extend into the setback no closer than one foot (1') from the property line. No sign shall be placed within any drainage or public easement.

3. Except for off premises signs allowed in other sections of this chapter, all signs must be located on the same lot as the person, firm, business, product, or building being identified.

4. On all corner lots, signs shall not be permitted within twenty feet (20') of any corner formed by the intersection of two (2) streets. The twenty feet (20') shall be in the form of a triangle with two (2) sides formed by the property lines and the third side formed by a straight line connecting the two (2) 20-foot points on each side of the corner. A sign may be extended above the triangular area provided that the clearance between the bottom of the sign face and the street grade is fifteen feet (15') or higher.

I. Banners, Pennants, Streamers, Strings Of Lights, Searchlights: No banner, pennant, streamer, string of lights, searchlight, or any other similar sign shall be permitted, except as provided in subsections 10-7-7B and C of this chapter. Banner signs and specialty signs will be permitted as temporary signage as regulated by this section and subsections 10-7-7B and C of this chapter.

J. Projecting Signs: Projecting signs are permitted if they are at least eight feet (8') above ground and meet required setbacks. Said sign shall be counted as a wall sign in the sign area calculation.

K. Accessory Use: All signs shall be accessory uses within the designated zoning district and shall be directly related to the principal use of the property on which it is located. Only off premises signs and billboard sign structures, allowed under subsection 10-7-7B6 of this chapter, shall be an exception to this provision.

L. Sign Height:

1. All height restrictions on signs shall include height of sign structure and be measured from the lot grade or in the case of an inflatable device from its mounting surface to its highest point.

2. The top edge of any wall or building mounted sign or object intended as an attention attracting device shall not extend above the roofline, parapet, mansard or facade of a building adjacent to the sign or object.

M. Freestanding Signs: A freestanding sign or sign structure constructed so that the faces are not back to back shall not have an angle separating the faces exceeding twenty degrees (20°) unless the total area of both sides added together does not exceed the maximum allowable sign area for that district.

N. Off Premises Signs: Off premises signs shall adhere to the regulations of subsection 10-7-7B6 of this chapter. (Ord. 2016-03, 5-2-2016)

Notes

1 1. See chapter 5 of this title.

10-7-6: DISTRICT REGULATIONS:
The following regulations apply to the city's various zoning districts:

A. In A-1, A-2, R-1A, R-1, R-2, R-3 districts, the following signs are allowed without a permit:

1. Special Event: Temporary special event signs may be allowed without a permit subject to the following:

a. The sign shall not exceed four (4) square feet.

b. The sign shall not exceed five feet (5') in height.

c. A temporary sign for a special event may not be placed on the property prior to five (5) days before the event, and must be removed one day after the end of the event.

2. Address Identification: For each dwelling unit there shall be permitted one address sign not exceeding two (2) square feet in area.

3. Property For Sale: Property listed for sale may have one temporary freestanding sign provided it meets the following:

a. The sign shall not exceed four (4) square feet.

b. The sign shall not exceed five feet (5') in height.

c. The sign may only be displayed while the property is listed for sale.

d. The sign is removed within fourteen (14) days after the date of closing.

e. The sign is removed if the property is no longer offered for sale.

4. Vacant Lots For Sale: Vacant lots that are two (2) acres or more in size that are listed for sale are allowed one temporary freestanding sign per adjacent street provided that:

a. The sign shall not exceed thirty two (32) square feet.

b. The sign shall not exceed eight feet (8') in height.

c. The sign shall not be placed in the public right of way and shall meet the required sign setbacks.

d. The sign shall be removed within fourteen (14) days of the property being sold.

e. The sign is removed if the property is no longer offered for sale.

5. Remodeling: In connection with the construction or remodeling of a building, there shall be permitted one freestanding sign not exceeding thirty two (32) square feet in area and eight feet (8') in height; on corner lots, two (2) such signs, one facing each street, shall be permitted. All signs shall be removed by the person or persons erecting the same no longer than two (2) weeks after final inspection by the building official of the structure indicated, or two (2) years, whichever is less.

6. Campaign Signs: Campaign signs are exempt from these provisions of this chapter per Minnesota state statute 211B.045.

B. In A-1, A-2, R-1A, R-1, R-2, R-3 districts, signs are allowed by permit with the following conditions:

1. Businesses other than home occupations allowed within the agricultural and residential districts are allowed one wall sign or one monument sign provided that:

a. Freestanding signs may not exceed fifty (50) square feet or eight feet (8') in height.

b. Wall signs may not exceed fifteen percent (15%) of the building facade.

2. Subdivisions with twenty (20) or more units are permitted one permanent freestanding sign per subdivision street entrance, provided it meets the following regulations:

a. The sign may not exceed thirty two (32) square feet.

b. The sign shall be placed on an outlot, easement, or common lot owned by a neighborhood association property.

c. The sign may not be placed in a visibility triangle.

d. The neighborhood association shall be responsible for the maintenance and upkeep of the sign.

e. The sign must be constructed out of materials approved by the zoning administrator.

C. In R-4, R-5, R-6, R-7, R-8, R-MH districts, the following signs are allowed without a permit:

1. Special Event: One temporary special event sign is allowed without a permit per street frontage provided that the following criteria is met:

a. The sign shall not exceed four (4) square feet.

b. The sign shall not exceed five feet (5') in height with the exception of wall signs.

c. A temporary sign for a special event may not be placed on the property prior to five (5) days before the event, and must be removed one day after the end of the event.

2. Address Identification: For each dwelling unit, there shall be permitted one nameplate not exceeding two (2) square feet in area indicating the name and/or address of the occupant.

3. Remodeling: In connection with the construction or remodeling of a building, there shall be permitted one sign not exceeding thirty two (32) square feet in area and eight feet (8') in height; on corner lots, two (2) such signs, one facing each street, shall be permitted. All signs permitted shall be removed by the person or persons erecting the same no longer than two (2) weeks after final inspection by the building official of the structure indicated, or two (2) years, whichever is less.

4. Property For Sale: Property listed for sale or rent may have one temporary wall or freestanding sign per street frontage provided it meets the following:

a. Wall signs shall not exceed ten percent (10%) of the building side facing a public street.

b. Freestanding signs shall not exceed thirty two (32) square feet in area or eight feet (8') in height.

c. Signs must meet all sign setback requirements.

d. The sign may only be displayed while the property is listed for sale or rent.

e. The sign is removed within fourteen (14) days after the date of closing or vacancy filled.

f. The sign is removed if the property is no longer offered for sale or rent.

5. Vacant Lots For Sale: Vacant lots that are two (2) acres or more in size that are listed for sale are allowed one temporary sign without a permit per adjacent street provided that:

a. The sign shall not exceed thirty two (32) square feet.

b. The sign shall not exceed eight feet (8') in height.

c. The sign shall not be placed in the public right of way.

d. The sign shall be removed within fourteen (14) days of the property being sold.

e. The sign is removed if the property is no longer offered for sale.

6. Campaign Signs: Campaign signs are exempt from these provisions per Minnesota state statute 211B.045.

D. In R-4, R-5, R-6, R-7, R-8, R-MH districts, the following signs are allowed by permit:

1. Businesses other than home occupations allowed within the residential districts are allowed one wall sign and one freestanding sign provided that:

a. Wall signs shall not exceed ten percent (10%) of building facade facing a street.

b. Freestanding signs shall not exceed one hundred (100) square feet or ten feet (10') in height.

2. Multiple-family, apartments, condominiums, and cooperatives containing four (4) or more units, may have the following signs:

a. Wall signs not to exceed ten percent (10%) of the building facade facing a street.

b. One freestanding sign per site entrance from a street not to exceed forty (40) square feet in area and not to exceed ten feet (10') in height.

3. Subdivisions with twenty (20) or more units are permitted one permanent sign per public street access provided it meets the following regulations:

a. The sign may not exceed thirty two (32) square feet.

b. The sign shall be placed on an outlot, easement, or neighborhood association property.

c. The sign may not be placed in a visibility triangle.

d. The neighborhood association is responsible for the maintenance and upkeep of the sign.

e. The sign must be constructed out of materials approved by the zoning administrator and must complement the neighborhood.

E. In B-2, B-2A, B-3, B-4, B-W districts, the following signs are allowed without a permit:

1. Address Identification: For each business unit, there shall be permitted one nameplate not exceeding two (2) square feet in area.

2. Window Signs:

a. Window signs may occupy up to twenty percent (20%) of the window area.

b. All window signs must be placed inside the building.

3. Remodeling: In connection with the construction or remodeling of a building, there shall be permitted one sign not exceeding thirty two (32) square feet in area and eight feet (8') in height; on corner lots, two (2) such signs, one facing each street, shall be permitted. All signs permitted shall be removed by the person or persons erecting the same no longer than two (2) weeks after final inspection by the building official of the structure indicated, or two (2) years, whichever is less.

4. Vacant Lots For Sale: Vacant lots that are two (2) acres or more in size that are listed for sale are allowed one temporary freestanding sign without a permit per adjacent street provided that:

a. The sign shall not exceed thirty two (32) square feet.

b. The sign shall not exceed eight feet (8') in height.

c. The sign shall not be placed in the public right of way and must meet sign setback requirements.

d. The sign shall be removed within fourteen (14) days of the property being sold.

e. The sign is removed if the property is no longer offered for sale.

5. Property For Sale: Property listed for sale or rent may have one temporary wall or freestanding sign provided it meets the following:

a. Wall sign shall not exceed ten percent (10%) of the wall facade facing a public street.

b. Freestanding signs shall not exceed thirty two (32) square feet or eight feet (8') in height.

c. The sign may only be displayed while the property is listed for sale or rent.

d. The sign is removed within fourteen (14) days after the date of closing or vacancy filled.

e. The sign is removed if the property is no longer offered for sale or rent.

6. Campaign Signs: Campaign signs are exempt from these provisions per Minnesota state statute 211B.045.

F. In B-2, B-2A, B-3, B-4, B-W districts, the following signs are allowed by permit:

1. Wall, Awning, And Canopy Signs:

a. Area: The total wall sign area (including projecting, awning, and canopy signs) for any building shall not exceed fifteen percent (15%) of the building walls (including windows and doors) fronting on a public street right of way.

b. Number: The total number of signs may not exceed two (2) signs per building walls fronting on a public street right of way. One wall sign may be a changeable message board including changeable reader board/changeable banner (nondynamic) that is framed to define its perimeter. Additional wall signs may be approved with the submission and approval of a comprehensive sign plan per subsection 10-7-7D of this chapter.

c. Awning Or Canopy Signs: Letters may be painted or otherwise affixed to any permissible awning or canopy, subject to the following regulations:

(1) Lettering or letters shall not project above, below or beyond the physical dimensions of the awning or canopy.

(2) Signs on awnings that do not exceed fifty percent (50%) of the total square footage of the awning.

d. Location: Wall signs shall be located on that side of the building or tenant bay facing the street right of way. Signs may be placed on that side of a building or tenant bay not facing a street right of way provided that no sign is located on that side of the building where the lot directly abuts a residential zoning district.

e. Type And Construction:

(1) Illuminated Signs: Wall signs shall be illuminated by shielded illumination, shielded silhouette lighting or shielded spotlighting, but not any lighting where the light source itself is visible or exposed on the face or sides of the characters.

(2) Clearance To Grade: Signs constructed of metal and illuminated by any means requiring internal wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to grade of nine feet (9'). Accessory lighting fixtures attached to a nonmetal frame sign shall maintain a clearance of nine feet (9') to ground. In the event a metal sign structure or accessory fixture herein described is grounded by the use of a grounding conductor run with the circuit conductors, and said structure or fixture is also grounded by being bonded to a grounding electrode at the sign site, no clearance to grade shall be mandatory.

(3) Neon Signs: Wall signs may be gaseous tube or may be illuminated by interior means of lighting of an intensity to prevent excessive glare and shall comply with the regulations established in section 10-7-7 of this chapter.

2. Ground Signs:

a. Not more than one ground sign shall be permitted on any lot. The total area of such sign shall be based on the lot width where the sign is

to be placed up to a maximum area. For each one hundred (100) linear feet of width, sixty (60) square feet of signage shall be permitted (lot width/100 x 60) up to a maximum of two hundred fifty (250) square feet.

b. No ground sign shall exceed thirty feet (30') in height.

c. Sign area for ground signs applies to only one face of a two (2) faced ground sign, or two (2) faces of a four (4) faced sign, etc.

d. Commercial lots having one hundred feet (100') in width immediately adjacent to and along Interstate Highway 94 (excluding any intervening street or railroad right of way) shall be allowed the following:

(1) One freestanding pylon sign not to exceed fifty feet (50') in height. Sign area shall be determined by this subsection F2.

(2) One freestanding monument sign at the site entrance not to exceed sixty (60) square feet in sign area or twelve feet (12') in height.

(3) Lots containing an off premises advertising device shall only be allowed one billboard sign not to exceed fifty feet (50') in height.

e. Ground signs shall have a background which is dark in color in contrast to the sign lettering or message which is light in color to create a sufficient contrast and be clearly legible. No ground signs with lightly colored backgrounds shall be permitted unless the following conditions are met:

(1) All signs with light backgrounds shall be equipped with automatic dimming devices. Light cast upon adjacent rights of way (as measured from the curb line) or residential zoning districts (as measured from the property line) shall not exceed five-tenths (0.5) foot-candle (meter reading) above ambient light.

(2) The sign does not exceed thirty feet (30').

(3) The sign is located two hundred feet (200') from all residential buildings.

3. Changeable Copy Signs: One electronic changeable copy sign shall be allowed per site in the above listed districts with the following restrictions:

a. The images and messages displayed on changeable copy signs must be static, and the transition from one static display to another must be instantaneous without any special effects with the exception of a scrolling monochromatic message on a single color dark background.

b. A changeable copy sign may change its message no more than once every eight (8) seconds.

c. No changeable copy signs shall be closer than two hundred feet (200') from any residential zoning district unless they are screened from the adjoining residential property, or they shall not be illuminated between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. if the use is not open for business.

d. All changeable copy signs shall be equipped with automatic dimming devices. Light cast upon adjacent rights of way (as measured from the curb line) or residential zoning districts (as measured from the property line) shall not exceed five-tenths (0.5) foot-candle (meter reading) above ambient light.

e. Changeable copy signs shall not be permitted as window signs.

4. Automobile Service Station Signs: In addition to the district standards, the following sign standards apply to automobile service stations:

a. Pump operation instructions located on the gas pumps are exempt from the sign requirements.

b. Motor fuel station canopy may have a sign on those facades facing a public street not to exceed thirty percent (30%) of the canopy face.

5. Comprehensive Sign Plan: A comprehensive sign plan in accordance with subsection 10-7-7D of this chapter.

6. Special Event Signs: Temporary special event signs as regulated by subsection 10-7-7B of this chapter.

7. New Business Temporary Signs: New business temporary signs as regulated by subsection 10-7-7C of this chapter.

G. In I-1, I-2 districts, the following signs are allowed without a permit:

1. Window Signs:

a. Window signs may occupy up to twenty percent (20%) of the window space on which the sign is placed.

b. All window signs must be placed inside the building.

2. Campaign Signs: Campaign signs are exempt from these provisions per Minnesota state statute 211B.045.

3. Address Identification: For each business unit, there shall be permitted one nameplate not exceeding two (2) square feet in area.

4. Remodeling: In connection with the construction or remodeling of a building, there shall be permitted one sign not exceeding thirty two (32) square feet in area and eight feet (8') in height; on corner lots, two (2) such signs, one facing each street, shall be permitted. All signs permitted shall be removed by the person or persons erecting the same no longer than two (2) weeks after final inspection by the building official of the structure indicated, or two (2) years, whichever is less.

5. Vacant Lots For Sale: Vacant lots that are two (2) acres or more in size that are listed for sale are allowed one temporary freestanding sign without a permit per adjacent street provided that:

a. The sign shall not exceed thirty two (32) square feet.

b. The sign shall not exceed eight feet (8') in height.

c. The sign shall not be placed in the public right of way and must meet sign setback requirements.

d. The sign shall be removed within fourteen (14) days of the property being sold.

e. The sign is removed if the property is no longer offered for sale.

6. Property For Sale: Property listed for sale or rent may have one temporary wall or freestanding sign provided it meets the following:

a. Wall signs shall not exceed ten percent (10%) of the building facade facing a public street.

b. Freestanding signs shall not exceed thirty two (32) square feet or eight feet (8') in height.

c. The sign may only be displayed while the property is listed for sale or rent.

d. The sign is removed within fourteen (14) days after the date of closing or vacancy filled.

e. The sign is removed if the property is no longer offered for sale or rent.

H. In I-1, I-2 districts, the following signs are allowed by permit:

1. Wall, Awning And Canopy Signs: Wall, awning, or canopy signs with the following restrictions:

a. Wall Signs: Wall signs shall not exceed two hundred (200) square feet or ten percent (10%) of the wall area (including windows and doors) facing the public street right of way, whichever is less.

b. Illumination: Signage placed on a wall abutting a public right of way, if illuminated, shall be by shielded illumination, shielded silhouette lighting, or shielded spotlighting but not any lighting where the light source itself is visible or exposed on the face or sides of the characters.

c. Awning Or Canopy Signs: Letters may be painted or otherwise affixed to any permissible awning or canopy, subject to the following regulations:

(1) Lettering or letters shall not project above, below or beyond the physical dimensions of the awning or canopy.

(2) Signs on awnings that do not exceed fifty percent (50%) of the total square footage of the awning.

d. Signage On Walls Not Abutting A Public Right Of Way: A sign or signs shall be permitted on those walls not abutting a public right of way of any principal building, subject to the following regulations:

(1) The total area of each sign or signs shall not exceed nine (9) square feet per access door.

(2) Notwithstanding subsection H1b of this section, if the main entrance/exit to a particular use in the principal building opens on a wall not abutting a public right of way, the applicant shall be permitted to sign the walls not abutting a public right of way in accordance with the provisions of subsection H1a of this section.

2. Ground Signs:

a. There shall be not more than one ground sign along each public street from which access is available for the parcel. The total area of such ground sign shall not exceed two hundred (200) square feet in area.

b. No ground sign shall exceed thirty feet (30') in height.

c. In lieu of a ground sign, one pylon sign shall be permitted on any lot in an industrial district, subject to the regulations in this section.

d. Ground signs shall have a background which is dark in color in contrast to the sign lettering or message which is light in color to create a sufficient contrast and be clearly legible. No ground signs with lightly colored backgrounds shall be permitted unless the sign is located two hundred feet (200') from all residential property lines.

3. Changeable Copy Signs: One electronic changeable copy sign shall be allowed per site in the above listed districts with the following restrictions:

a. The images and messages displayed on the signs must be static, and the transition from one static display to another must be instantaneous without any special effects with the exception of a scrolling monochromatic message on a single color dark background.

b. The sign may change its message no more than once every eight (8) seconds.

c. No sign shall be closer than two hundred feet (200') from any residential zoning district unless they are screened from the adjoining residential property, or they shall not be illuminated between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. if the use is not open for business.

d. All signs with light background shall be equipped with automatic dimming devices. Light cast upon adjacent rights of way (as measured from the curb line) or residential zoning districts (as measured from the property line) shall not exceed five-tenths (0.5) foot-candle (meter reading) above ambient light.

e. Changeable copy signs shall not be permitted as window signs.

4. Special Events Signs: Temporary special event signs regulated by subsection 10-7-7B of this chapter.

5. New Business Temporary Signs: New business temporary signs as regulated by subsection 10-7-7C of this chapter.

6. Comprehensive Sign Plan: A comprehensive sign plan in accordance with subsection 10-7-7D of this chapter.

I. In the P/I district, the following signs are allowed without a permit:

1. Address Identification: For each business unit, there shall be permitted one nameplate not exceeding two (2) square feet in area.

2. Window Signs:

a. Window signs may occupy up to twenty percent (20%) of the window space on each side of a principal building without a permit.

b. Window signs that occupy more than twenty percent (20%) of the window space require a permit.

c. All window signs must be placed inside the building.

3. Remodeling: In connection with the construction or remodeling of a building, there shall be permitted one sign not exceeding thirty two (32) square feet in area and eight feet (8') in height; on corner lots, two (2) such signs, one facing each street, shall be permitted. All signs permitted shall be removed by the person or persons erecting the same no longer than two (2) weeks after final inspection by the building official of the structure indicated, or two (2) years, whichever is less.

4. Vacant Lots For Sale: Vacant lots that are two (2) acres or more in size that are listed for sale are allowed one temporary freestanding sign without a permit per adjacent street provided that:

a. The sign shall not exceed thirty two (32) square feet.

b. The sign shall not exceed eight feet (8') in height.

c. The sign shall not be placed in the public right of way and must meet sign setback requirements.

d. The sign shall be removed within fourteen (14) days of the property being sold.

e. The sign is removed if the property is no longer offered for sale.

5. Property For Sale: Property listed for sale or rent may have one temporary wall or freestanding sign provided it meets the following:

a. Wall signs shall not exceed ten percent (10%) of the building facade facing a public street.

b. Freestanding signs shall not exceed thirty two (32) square feet or eight feet (8') in height.

c. The sign may only be displayed while the property is listed for sale or rent.

d. The sign is removed within fourteen (14) days after the date of closing or vacancy filled.

e. The sign is removed if the property is no longer offered for sale or rent.

6. Campaign Signs: Campaign signs are exempt from these provisions per Minnesota state statute 211B.045.

J. In the P/I district, the following signs are allowed by permit:

1. Wall Signs:

a. Area: The total wall sign area (including wall, awning, canopy, projecting signs) shall not exceed ten percent (10%) of building facade fronting on a public street.

b. Number: The total number of signs may not exceed two (2) signs per building wall fronting on a public street right of way. One wall sign may be a changeable message board including changeable reader board/changeable banner (nondynamic) that is framed to define its perimeter. Additional wall signs may be approved with the submission and approval of a comprehensive sign plan per subsection 10-7-7D of this chapter.

c. Location: Wall signs shall be located on that side of the building or tenant bay facing the street right of way. Signs may be placed on that side of a building or tenant bay not facing a street right of way provided that no sign is located on that side of the building where the lot directly abuts a residential zoning district.

2. Freestanding Signs:

a. Area: The maximum size of sign area allowed for such uses shall be determined on the basis of site area according to the following schedule:

(1) Up to five (5) acres: Ninety six (96) square feet.

(2) 5.1 acres to twenty five (25) acres: One hundred twenty eight (128) square feet.

(3) 25.1 acres and above: One hundred sixty (160) square feet.

b. Height: The maximum height of sign structures shall be determined on the basis of site size according to the following schedule:

(1) Up to fifteen (15) acres: 8.0 feet.

(2) 15.1 acres and above: 17.5 feet.

c. Number: One freestanding sign per site.

3. Comprehensive Sign Plan: A comprehensive sign plan as regulated by subsection 10-7-7D of this chapter. (Ord. 2016-03, 5-2-2016)

10-7-7: SPECIAL SIGN STANDARDS:

A. Billboards:

1. Billboards shall only be allowed within the "adjacent area", as defined in section10-7-2 of this chapter.

a. The maximum area of a billboard face, whether a single billboard face or each face of two (2) back to back or V type billboards, shall not exceed seven hundred twenty (720) square feet, including border and trim, but excluding base and apron supports and other structural members, and provided further, that the maximum allowable extensions shall not exceed fifteen percent (15%) of the total billboard area. The maximum size limitation stated in this subsection A1a shall apply to each side of a billboard structure, and billboards may be placed back to back, or in a V type construction (provided the angle shall not exceed 90 degrees), but not more than two (2) displays to each facing, and such billboard shall be considered as one billboard.

b. Billboards shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an interstate highway, of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle, are prohibited.

c. Outdoor billboards shall not be erected or maintained which shall be so illuminated that they interfere with the effectiveness of or obscure any official traffic sign, device or signal.

2. No billboard shall be erected closer to any other such billboard on the same side of the same interstate highway facing traffic proceeding in the same direction than one thousand feet (1,000').

3. All billboards shall comply with the minimum principal building setback requirements provided in the applicable zoning district.

4. The maximum height of any billboard shall be thirty feet (30') from the ground.

5. The maximum length of any billboard shall be sixty feet (60').

6. No billboard shall be erected or maintained on any lot or parcel of land unless the lot or parcel of land is within the area zoned as commercial or industrial districts under the Albertville zoning ordinance.

7. No billboard shall be erected or maintained in that part of the city which lies south of County State Aid Highway 37 and west of the bridge over Interstate Highway 94 (202 bridge).

8. Electronic changeable billboards shall only be permitted on legal conforming billboards with the following requirements:

a. The graphic display may not change or move more often than once every eight (8) seconds.

b. The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.

c. All changeable billboard signs shall be equipped with automatic dimming devices. Light cast upon adjacent rights of way (as measured from curb line) or residential zoning districts (as measured from the property line) shall not exceed five-tenths (0.5) foot-candle (meter reading)

above ambient light.

d. Billboards shall have the vertical support structure of the sign (such as pole) concealed with architectural embellishments consisting of natural stone, brick, masonry panels, stucco, or synthetic material that has the appearance of natural stone, brick or stucco over eighty percent (80%) of the exterior face on all sides of the structure.

9. No sign permit to erect a billboard on parcels or lots that are abutting city owned right of way intended for future interstate access improvements, shall be issued unless an acknowledgment and waiver of future damages is first signed by the applicant and all property owners and submitted to the city. Said acknowledgment and waiver shall be in the form approved by the city attorney, and shall acknowledge that future construction of CSAH 19/Interstate 94 and CSAH 37/Interstate 94 interchange improvements may impact the visibility of the proposed device/sign. The acknowledgment and waiver shall require the applicant and property owners to hold the city harmless and waive all damage claims arising as a result of such improvements, including, but not limited to, claims arising from the obstruction of the view of any billboard installed on the permitted property pursuant to a sign permit issued by the city. Said acknowledgment and waiver shall not apply to damages resulting from the physical occupation of the applicant's real property by the city. Said acknowledgment and waiver shall be submitted to the city with the application for a sign permit. Failure to submit such acknowledgment and waiver shall result in a denial of the requested sign permit or the refusal of the city to process the application due to its incomplete status.

10. Every permit issued by the city shall be assigned an identification number. The city shall also issue with each permit an identifying number which shall be attached by the permittee to the billboard in a conspicuous place. The permittee shall also have his name plainly marked on each billboard.

B. Temporary And Portable Signs: In all districts temporary and/or portable signs or banners may be permitted subject to the following: (Ord. 2016-03, 5-2-2016)

1. Permit Requirements:

a. Permit Application: Temporary and/or portable signs or banners shall not be permitted without a permit. A temporary sign application fee, as established in section 3-1-3 of this code, shall be submitted to the city building official. Each sign shall require a separate permit. The application shall be signed by both the business requesting the sign and the property owner of the site where the sign is to be located. The sign application shall include information that identifies the type of sign, sign size, sign location and the dates when the sign will be in place and the date of the sign removal. The city building official is authorized to review and approve permits for temporary signs and/or portable signs or banners, ten (10) days prior to the special event. (Ord. 2017-01, 1-3-2017)

b. Duration Of Permit; Expiration; Sign Removal Required: All permits issued hereunder shall be for a maximum duration of fourteen (14) days and shall automatically expire after said period. Upon expiration, the applicant shall cease to display any and all signage permitted by the permit unless the applicant has received a new permit for said signage.

c. Limitations On Permits:

(1) The number of temporary and portable signs shall be limited to four (4) permits per calendar year per property. Shopping centers and multiple-tenant buildings shall be counted as one property.

(2) If two (2) or more permits are obtained in succession by any applicant, these permits shall be counted for the purpose of determining the yearly limitations of this subsection B1c.

2. Maximum Size: Maximum banner sign size shall be limited to thirty two (32) square feet. Maximum portable sign size shall be limited to forty eight (48) square feet.

3. Temporary Sign Location Standards:

a. Except as allowed in subsection B6 of this section, all temporary signs shall be located on the property of the business with the special event.

b. Signs may not be placed in the right of way and must be set back a minimum of five feet (5') from all property lines.

c. Where multiple signs have been located, they shall be a minimum of one hundred feet (100') apart.

4. Dangerous Signs Prohibited; Anchors Required: Signs must not be unsafe or dangerous; they must be securely anchored.

5. Electronic Signs: Electronic changeable copy signs shall be prohibited as temporary or portable signs.

6. Nonprofit Or Charitable Organization Signs:

a. Nonprofit and charitable organizations as defined by internal revenue code 501(C3) or 501(C4) may have temporary off premises signs provided:

(1) All temporary signs require permits; permit applications must include the property owner's permission to locate the sign on their property.

(2) Special events are limited to no more than six (6) in a calendar year.

(3) Signs from a nonprofit or charitable organization shall not be counted against the number of temporary sign permits allowed to the property owner.

(4) Nonprofits and charitable organizations may have up to three (3) temporary signs per permit.

(5) Nonprofit and charitable organization temporary signs shall comply with sign location standards of subsection B3 of this section. These signs may be located on vacant lots with the written permission of the property owner.

7. Violation: Temporary off premises signs erected without a permit or in violation of this subsection B may be subject to immediate removal and/or be subject to an administrative fine per title 1, chapter 6 of this code. After one notice of a violation of this section the city shall levy administrative fines for subsequent violations or repeat offenses without additional notices. Failure to abide by the approved permit or the provision of this code will be grounds for denial of additional permits for six (6) months following notice of violation.

C. New Business Temporary Signs: New businesses in the B, PUD, or I districts shall be allowed additional temporary sign permits during the first three (3) months of the opening of a new business. These "new business temporary signs" shall not exceed three (3) signs consisting of a combination of portable signs, banners, pennants, and flags. Only one of said signs may be a "portable sign", as defined in section 10-7-2 of this chapter. Display of said signs shall not exceed a period of thirty (30) days. No such additional sign will be allowed if it interferes with the use of adjacent property or constitutes a danger to public health, welfare or well being, or if it does not conform to the other provisions of this chapter.

D. Comprehensive Sign Plan:

1. Introduction: Mixed use, commercial, and industrial multiple occupancy buildings, PUD developments, or single occupancy buildings requesting more than two (2) signs shall submit an application and receive approval of a comprehensive sign plan. Any building devoted to two (2) or more uses shall be a multiple occupancy building and shall require a comprehensive sign plan. Upon approval of a comprehensive sign plan, no permit shall be issued for an individual use except upon a determination that it is consistent with a previously or concurrently approved comprehensive sign plan. The effect of said comprehensive sign plan is to allow and require the owner of multiple occupancy structures to determine the specific individual sign requirements for the tenants of his building. As sign locations, size and other sign details may be of some significant importance in lease arrangements between owner and tenant, it is the city's intention to establish general requirements for the overall building only, thus providing a building owner with both the flexibility and responsibility to deal with his individual tenants on their specific sign needs. Comprehensive sign plan applications or amendments require approval of an administrative permit.

2. Comprehensive Sign Plan Information: The applicant shall prepare a written and graphic comprehensive sign plan for submission to the city. Said plan shall include, but not be limited to, the following information:

a. Sign locations, wall signs, awning signs, traffic control signs, and freestanding signs, etc.

b. Sign area.

c. Sign height.

d. Scaled building elevations.

e. Scaled floor plan that outlines tenant bays.

f. Identification of sign design.

g. Sign construction drawings (sections).

h. City staff may request additional information from the applicant concerning the application or may retain expert opinions at the expense of the city, or may require as a condition of proceeding with its consideration that the applicant furnish expert opinion and data at the expense of the applicant.

3. Sign Types, Cumulative Area, And Location: Through an approved comprehensive sign plan, the site may have building identification wall signs, individual tenant wall signs, awning signs, canopy signs, marquee signs and directory signs. The cumulative sign area of the aforementioned signs shall not exceed fifteen percent (15%) of the building facades on which they are located. These signs shall be located on building facades fronting on public streets or city approved private streets or parking lots.

4. Multiple Occupancy Buildings:

a. Wall Signs:

(1) Maximum Area: The total allowable sign area for a multiple occupancy structure shall not exceed fifteen percent (15%) of the combined wall surfaces on walls which abut streets in business or industrial zoning districts.

(2) Building Identification Signs: No multiple occupancy structure may display more than two (2) overall building identification signs. The total area of individual tenant wall signs, awning signs, canopy signs and marquee signs shall not exceed fifteen percent (15%) of the building facade of the individual tenant bay.

(3) Tenant Signs: Individual tenants located within multiple occupancy structures shall be permitted to display individual signs, if they have separate exterior entrances to their use or they are tenants in a shopping center. A tenant occupying a corner location fronting two (2) streets may display signs to both street frontages.

(4) Location Of Tenant Signs: Except for subsection D4a(5) of this section, tenant wall, awning, and banner signs shall be located on the building facades of the tenant bay occupied by the business.

(5) Tenant Sign Location Exception: The property owner may identify through a comprehensive sign plan up to four (4) tenants per building within the multiple occupancy building that will be eligible to locate wall signs on the building at locations beyond their occupied tenant bays.

(6) Illuminated Wall Signs: The location of all wall signs and awning signs shall be established through an approved comprehensive sign plan. No illuminated wall signs shall be located on the side of a building where the lot directly abuts a residential zoning district.

(7) Individual Sign Permits Required: Individual sign permits shall be required prior to the installation of any wall signs or awning signs.

b. Tenant Directory Signs: Multiple story/multiple occupancy buildings with tenants served by a common building entrance may have, in addition to the wall signs, one tenant directory sign as either a wall sign or freestanding sign located at each common entrance provided the tenant directory sign meets the following standards:

(1) An individual tenant directory sign shall not exceed one hundred (100) square feet in area.

(2) An individual tenant directory sign shall be located within fifty feet (50') of the common building entrance.

(3) A freestanding individual tenant directory wall sign shall not exceed ten feet (10') in height. Individual tenant directory wall signs shall not be located above the building floor where the common entrance is located.

5. Freestanding Signs:

a. Shopping Centers: Shopping centers containing more than four (4) separate distinct occupancies may erect one freestanding sign per street frontage, not to exceed two (2) freestanding shopping center signs per site (single or double faced). Each ground sign may not exceed the district standards in sign area, nor thirty feet (30') in height.

b. Other Multiple Occupancies: Multiple occupancy structures other than shopping centers, or shopping centers having four (4) or less separate and distinct occupancies, may erect one ground sign in accordance with the provisions of this chapter and may identify each separate and distinct occupancy on said ground sign.

c. Changeable Copy Wall Signs: Changeable copy wall signs are permitted subject to the provisions of section 10-7-6 of this chapter.

6. Traffic Control/Directional Signs: The city may approve a traffic control/directional sign plan for a commercial, industrial, and planned unit development site including signs not to exceed four (4) square feet in area. (Ord. 2016-03, 5-2-2016)

10-7-8: PERMIT REQUIREMENTS:

A. Permit And Compliance Required: Except for routine maintenance, no billboard or sign may be painted, constructed, erected, structurally remodeled, relocated or change of message, or expanded until a billboard or sign permit is obtained and until all other signs on the premises of the applicant are brought into conformance with this chapter. No such permit shall be issued for any billboard or sign unless the same is permitted by,

and complies with the regulations of this section; provided, however, that signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, and warnings at railroad crossings, are exempt from the permit requirement and from the regulations of this section.

B. Application For Permit: The application for a billboard or sign permit shall be made upon the forms provided by the city and shall state or have attached thereto the following information:

1. Name, address and telephone number of applicant and owner of the billboard or sign.

2. Location of lot, building or structure upon which or to which the billboard or sign is to be erected or attached.

3. Position of the billboard or sign or other advertising structures in relation to nearby buildings or structures.

4. A blueprint or ink drawing of the plans and specifications and method of construction or attachment to the building or in the ground.

5. Copy of stress sheets and calculations showing the structure is designed for dead load and wind velocity in the amount required by this chapter and all other ordinances of the city if requested by the city building official. This information shall be furnished every three (3) years for each billboard or sign.

6. Name of person erecting the structure.

7. Any electrical permit required and issued for the sign.

8. A detailed description of any electronic or electrical components that are proposed to be added to the sign.

C. Permit Fees:

1. For each sign requiring a permit, there shall be an initial fee, as established in section 3-1-3 of this code, which shall be set from time to time by city council ordinance.

2. Advertising Device-Renewal Fee: For each advertising device there shall be an annual renewal fee which shall be set from time to time by the City Council by resolution on or before April 1 of each year to be applicable to subsequent renewal fees. Each permit shall expire on the thirtieth day of June following.

D. Revocation Of Permit: The city council may revoke any permit granted herein after a hearing for violation of the provisions of this chapter, or applicable laws and regulations of the United States or the state of Minnesota, upon thirty (30) days' written notice of such hearing to the permittee. The city council, within ten (10) days after conclusion of the hearing, shall notify the permittee of its decision, and may, where appropriate, notify the permittee what he can do to retain the permit, and the permittee shall, in those instances, have thirty (30) days therefrom in which to comply with the requirements of the city council, if compliance would bring the billboard or sign into lawful conformity with this chapter.

E. Scope Of Provisions; Exemptions:

1. Scope: The provisions of this section relating to permits and fees shall apply to billboards or signs legally existing on the effective date hereof as well as devices that may be erected and maintained thereafter.

2. Exemptions From Permit Requirements: Signs identified within this chapter, as allowed without permit, are exempt from permits and fee requirements. (Ord. 2016-03, 5-2-2016; amd. Ord. 2017-01, 1-3-2017; Ord. 2023-01, 2-6-2023)

10-7-9: VIOLATIONS; PENALTIES:

A. Notice Of Violation: If the building official or any other authorized agent of the city shall find any billboard, sign, accessory sign or other regulated sign in violation of the terms of this chapter, a written notice shall be issued to the permittee, owner, possessor (tenant in possession), operator or manager of the premises on which the billboard or sign is located, specifying the violation and giving seven (7) days in which to correct or remove the violation.

B. Failure To Remedy; Penalties: After the expiration of seven (7) days and the violation is not corrected or discontinued, any person convicted of such violation shall be punished as provided in section 3-1-3 of this code, and each day's violation after the initial seven (7) day period shall constitute a separate offense.

C. Injunctive Relief: In addition thereto, the city may seek injunctive relief in the district court of the county and require that either the billboard, sign, accessory sign or other regulated sign conform or be removed. (Ord. 2016-03, 5-2-2016; amd. Ord. 2019-13, 12-16-2019)

CHAPTER 8

VACANT BUILDING REGISTRATION

SECTION:

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10-8-9: Appeal

10-8-1: PURPOSE:

The purpose of this chapter is to protect the public health, safety and welfare, by establishing a program to identify and register vacant buildings and by determining what actions the city will take and what actions the owners of the buildings must take. (Ord. 2009-021, 9-21-2009)

10-8-2: FINDINGS:

The city council finds that buildings which remain vacant and unoccupied for any significant period of time become an attractive nuisance to children,

a harborage for rodents, an invitation as a temporary abode, an increased fire hazard, an increased risk of explosion due to the theft of internal piping, and that the unkempt grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are often permitted to become dilapidated; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated. (Ord. 2009-021, 9-21-2009)

10-8-3: DEFINITIONS:

DANGEROUS STRUCTURE: A structure that is potentially hazardous to persons or property, including, but not limited to: a) a structure that is in danger of partial or complete collapse; b) a structure with any exterior parts that are loose or in danger of falling; or c) a structure with any parts, such as floors, porches, railings, ramps, balconies, or roofs, that are accessible and that are either collapsed, or in danger of collapsing or unable to support the weight of normally imposed loads.

SECURED BY OTHER THAN NORMAL MEANS: Refers to a building secured by means other than those used in the design of the building.

UNOCCUPIED: A building which is not being used for a legal occupancy.

UNSECURED: A building or portion of a building that is open to entry by unauthorized persons without the use of tools.

VACANT BUILDING: A building or portion of a building that is:

A. Unoccupied and unsecured for five (5) days or more;

B. Unoccupied and secured by other than normal means for fifteen (15) days or more;

C. Unoccupied and in any phase of an active foreclosure proceeding under Minnesota statutes;

D. Unoccupied and a dangerous structure;

E. Unoccupied and posted for no occupancy or unfit for human habitation;

F. Unoccupied and has a city code violation existing for five (5) days or more; or

G. Condemned and illegally occupied.

H. Vacant building does not mean any building being constructed pursuant to a valid, unexpired building permit issued pursuant to city building code regulations. (Ord. 2009-021, 9-21-2009)

10-8-4: REGISTRATION:

A. The owner of a vacant building shall register the building with the city no later than seven (7) days after the building becomes a "vacant building" as defined in this chapter.

B. The city may register an unoccupied building as a vacant building when the city takes ordinance enforcement action or action to abate an ordinance violation against the unoccupied building or the grounds upon which it is located. In such case, the city shall complete all forms required by this section and may special assess all registration costs against such property.

C. A registration shall be completed on a form provided by the city. Such completed registration may be sent to the owner and all other parties holding an ownership or security interest in the property. The completed form shall include the following:

1. A description of the premises including address.

2. The names and addresses of the owners of the property.

3. The names and addresses of all known lien holders.

4. The period of time the building is expected to remain vacant.

5. A plan or timetable for returning the building to appropriate occupancy.

D. The owner shall notify the city in writing of any changes in the information supplied as part of the vacant building registration within seven (7) days of such change.

E. The owner of the building shall keep the vacant building secured and safe and the building grounds maintained.

F. The owner shall disconnect utilities to the vacant building when required by the city building official.

G. Any new owner of a "vacant building" as defined by this chapter must notify the city in writing of the change of ownership within seven (7) days of the change of ownership.

H. The owner of a vacant building must allow the city access for inspections. The city will provide the owner with five (5) days' notice for any inspection request except where a hazardous or unsafe condition exists, in which case the city may access the vacant building for inspection purposes after making a reasonable effort to contact the owner via telephone. (Ord. 2009-021, 9-21-2009)

10-8-5: FEE:

A. The owner of a vacant building shall pay an annual registration fee as established in section 3-1-3 of this code. Said fee may be modified by city council resolution from time to time. Subsequent annual fees shall be paid on the anniversary of the initial registration. This fee is imposed to defray the costs of registering and monitoring the vacant building. (Ord. 2017-01, 1-3-2017)

B. The first annual fee shall be paid no later than ten (10) days after the building has become a "vacant building" as defined by this chapter. (Ord. 2009-021, 9-21-2009)

10-8-6: CITY ACTION:

The city may take the following actions in relation to a vacant building. The building owner shall reimburse the city for all costs incurred by the city pursuant to this chapter.

A. The city may shut off water service to the vacant building, unless the owner can show good cause why water service should remain on.

B. The city may inspect the premises of the vacant building each month. (Ord. 2009-021, 9-21-2009)

C. The city may take any other action required to secure the building. Any additional costs as established in section 3-1-3 of this code shall be

charged back to the owner of the property.

D. The city may mow the lawn, landscape or grounds of any vacant building as needed if the plant growth violates city ordinance and the owner fails to timely cut the lawn. The owner shall pay the city for mowing the lawn at the rate established in section 3-1-3 of this code. (Ord. 2009-021, 9-21-2009; amd. Ord. 2017-01, 1-3-2017)

E. The city may plow sidewalks and driveways located on the vacant property, remove garbage from the vacant property, and take any other actions authorized by law to remedy an ordinance violation.

F. The city may conduct site inspections of the property upon which the vacant building is located as needed to ensure that the building is secure, the grounds are maintained and compliance with the terms of this chapter is achieved. (Ord. 2009-021, 9-21-2009)

10-8-7: CERTIFICATION OF UNPAID SERVICE CHARGES:
In the event the building owner fails to reimburse the city within thirty (30) days of mailing of a bill by the city for costs incurred by the city pursuant to enforcement of this chapter against a vacant property, or in the event the building owner fails to pay the registration fee required by this chapter, the city may certify such unpaid charges to the county auditor for collection with the next year's property taxes after ten (10) days' mailed notice to the property owner sent via first class U.S. mail to the owner's address as listed on the tax records at the Wright County recorder's office. (Ord. 2009-021, 9-21-2009)

10-8-8: PENALTY:
Any owner who fails to register a vacant building under this chapter or who provides inaccurate or false information shall face an administrative fine as established in section 3-1-3 of this code for each month that the building remains unregistered. (Ord. 2017-01, 1-3-2017)

10-8-9: APPEAL:
Any owner of a vacant building who believes that an order or penalty issued under this chapter is based on an erroneous interpretation of this chapter or a misstatement of facts may appeal to the city council. Such appeal must be in writing and must specify the grounds for the appeal. Any appeal must be filed within ten (10) days of the action taken with which the owner disagrees. (Ord. 2009-021, 9-21-2009)

TITLE 11

SUBDIVISION REGULATIONS

CHAPTER 1

GENERAL SUBDIVISION PROVISIONS

SECTION:

11-1-1: Short Title

11-1-2: Purpose

11-1-3: Definitions

11-1-4: Interpretation Of Provisions

11-1-1: SHORT TITLE:
This title may be known, cited and referred to as the*ALBERTVILLE SUBDIVISION ORDINANCE* [1] . (Amended Ord. 1988-8, 9-8-1988)

Notes

[1] 1. MSA ch. 429, §§ 462.351, 462.358, and 505.01 et seq.

11-1-2: PURPOSE:
This title is adopted for the following purposes:

A. To encourage well planned, efficient and attractive subdivisions by establishing adequate and impartial standards for design and construction;

B. To provide for the health and safety of residents by requiring properly designed streets and adequate sewer and water service;

C. To place the cost of improvements against those benefiting from their construction;

D. To secure the rights of the public with respect to public lands and waters; and

E. To set the minimum requirements necessary to protect the public health, safety, comfort, convenience and general welfare. (Amended Ord. 1988-8, 9-8-1988)

11-1-3: DEFINITIONS:
Except for those words and phrases defined in this section, the words and phrases used in this title shall be interpreted to be given the meanings in common usage, and as may be commonly defined in dictionaries so as to give this title its most reasonable application.

ALLEY: A public or private right of way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

APPLICANT: The owner, his agent or person having legal control and/or an interest in the land proposed to be subdivided.

ATTORNEY: The attorney employed by the city, unless otherwise stated.

BWSR: The Minnesota board of water and soil resources.

BASE LOT: A lot meeting all the specifications within its zoning district prior to being divided into a subdivision of single- family attached units.

BLOCK: An area of land within a subdivision that is entirely bounded by streets, or by streets and the entire boundary or boundaries of the subdivision, or a combination of the above, with a river, lake, railroad, or unsubdivided acreage.

BOULEVARD: The portion of the street right of way between the curb line and the property line.

BUILDING: Any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind.

BUTT LOT: A lot at the end of a block, located between two (2) corner lots.

CITY: The city of Albertville.

CLUSTER DEVELOPMENT: A subdivision development planned and constructed so as to group housing units into relatively tight patterns, while providing a unified network of open space and wooded areas, meeting the overall density regulation of this title and the zoning ordinance.

COMPREHENSIVE PLAN: A comprehensive plan prepared by the city, including a compilation of policy statement goals, standards and maps, indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the city, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

CONTOUR MAP: A map on which irregularities of land surface are shown by lines connecting points of equal elevations. "Contour interval" shall mean the vertical height between contour lines.

COPY: A print or reproduction made from a tracing.

COUNTY: Wright County, Minnesota.

DESIGN STANDARDS: The specifications to landowners or those proposing to subdivide land for the preparation of plats, both preliminary and final, indicating, among other things, the optimum, minimum or maximum dimensions of such items as rights of way, blocks, easements and lots.

DEVELOPMENT: The act of building structures and installing site improvements.

DOUBLE FRONTAGE LOT: A lot which has a property line abutting on one street and an opposite property line abutting on another nonintersecting street.

DRAINAGECOURSE: A watercourse or indentation for the drainage of surface water.

EASEMENT: A grant by a property owner for the use of a strip of land and for the purpose of constructing and maintaining drives and utilities, including, but not limited to, wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways and gas lines.

EMERGENCY OVERFLOW: A water flow path that is designed to safely remove excess water in case a pond or water body becomes higher than expected.

ENGINEER: The registered engineer employed by the city, unless otherwise stated.

FINAL PLAT: A drawing or map of a subdivision, meeting all of the requirements of the city and in such form as required by Wright County for the purpose of recording.

FLOODPLAIN: The area adjacent to a water body that is inundated by a 100-year flood.

GOVERNING BODY: The Albertville city council.

HIGH WATER LEVEL (HWL): The highest water level achieved in a water body predicted by the 100-year critical storm event.

KEY MAP: A map drawn to comparatively small scale which definitively shows the area proposed to be platted in relation to known geographical features (e.g., town centers, lakes and roads).

LOT: A parcel or portion of land in a subdivision or plat of land separated from other parcels or portions by description, as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof and having its principal frontage on a public street.

LOT, CORNER: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty five degrees (135°).

LOT IMPROVEMENTS: Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated, constituting a physical betterment of real property, or any part of such betterment. Certain proposed "lot improvements" shall be properly bonded for as provided in this title.

LOT OF RECORD: A parcel of land whether subdivided and/or otherwise legally described and recorded under a single parcel identification number as of March 17, 1975, or approved by the city as a lot and which is occupied by or intended for occupancy by one principal building or principal use, together with any accessory buildings and such open spaces as required by the city zoning ordinance and having its principal frontage upon a public street.

METES AND BOUNDS DESCRIPTION: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

MINNESOTA POLLUTION CONTROL AGENCY (MPCA): The state organization responsible for the NPDES/SDS permitting system.

NPDES/SDS: National pollutant discharge elimination system/state disposal system. This permitting system is managed by the Minnesota pollution control agency (MPCA).

NURP: The nationwide urban runoff program developed by the environmental protection agency to treat stormwater runoff from urban development.

NATURAL WATERWAY: A natural passageway in the surface of the earth, so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also shall include all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

NORMAL WATER LEVEL (NWL): For a reservoir with a fixed overflow, the NWL is lowest crest level of that overflow. For a reservoir whose outflow is controlled wholly or partly by movable gates, siphons or other means, it is the maximum level to which water may rise under normal operating conditions, exclusive of any provision for flood storage. For a closed depression wetland, it is the maximum level to which the water may rise under normal precipitation conditions exclusive of any provision for flood storage.

ORDINARY HIGH WATER LEVEL (OHWL OR OHW): The Minnesota DNR jurisdictional boundary of public waters and wetlands that is depicted by an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the normal summer pool.

OUTLOT: A lot remnant or parcel of land left over after platting, which is intended as open space or other future use, for which no building permit shall be issued.

OWNER: An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable or legal ownership interest in the land sought to be subdivided.

PARKS: Playgrounds, trails, parks or open spaces within the city, owned, leased or used, wholly or in part, by the city for park and recreational purposes or which are designated by the city council as a park.

PEDESTRIANWAY: A public right of way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of paths or trails.

PERCENTAGE OF GRADE: Along a centerline of a street, the change in vertical elevation in feet and tenths of a foot for each one hundred feet (100') of horizontal distance, expressed as a percentage.

PERMITTEE: The person or political subdivision in whose name a permit is issued pursuant to this title.

PLANNING COMMISSION: The planning commission of the city[1] .

PRELIMINARY PLAT: A drawing or map of a proposed subdivision, meeting the requirements herein enumerated, submitted to the planning commission and governing body for their consideration, in compliance with the comprehensive plan, along with required supporting data.

PRIVATE STREET: A street serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public and is owned by one or more private parties.

PROTECTIVE COVENANTS: Contracts entered into between all owners and holders of mortgages constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and providing mutual protection against undesirable aspects of development which would tend to impair the stability of property value and economic integrity of any given area.

PUBLIC IMPROVEMENT: Any drainage ditch, roadway, parkway, street, sanitary sewer, storm sewer, water system, sidewalk, pedestrianway, tree, lawn, off street parking area, lot improvement or other facility for which the city may ultimately assume ownership, responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

PUBLIC WATERS: Waters as defined in Minnesota statutes section 103G.005, subdivision 15.

PUBLIC WATERS WETLAND: As defined in Minnesota statutes section 103G.005, subdivision 15a.

QUADRAMINIUMS: Single structures which contain four (4) subdivided dwelling units all of which have individually separate entrances from the exterior of the structure.

RESERVE STRIPS: A narrow strip of land placed between lot lines and streets to control access.

RIGHT OF WAY: The land covered by a public road, otherwise dedicated for public use, or land for certain private uses, such as land over which a power line passes.

SETBACK: The distance between a building and the property line nearest thereto.

SIMPLIFIED HYDROLOGIC YIELD METHOD (SHYM): Methodology for assessing water elevations of landlocked basins.

STORMWATER POLLUTION PREVENTION PLAN: A joint stormwater and erosion and sediment control plan that is a document containing the requirements of section 11-7-12 of this title that, when implemented, will decrease soil erosion on a parcel of land and off site nonpoint pollution and sediment damages.

Best Management Practices (BMPs): Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated areawide planning agencies. (Examples of BMPs can be found in the current versions of the "State Of Minnesota Stormwater Manual", the Minnesota pollution control agency's "Storm-Water And Wetlands: Planning And Evaluation Guidelines For Addressing Potential Impacts Of Urban Storm-Water And Snow-Melt Runoff On Wetlands", the United States environmental protection agency's, "Stormwater Management For Construction Activities: Developing Pollution Prevention Plans And Best Management Practices", [as a reference for BMPs] and the Minnesota department of transportation's "Erosion Control Design Manual".)

Developer: A person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.

Discharge: The conveyance, channeling, runoff, or drainage of stormwater, including snowmelt, from a construction site.

Energy Dissipation: Refers to methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

Erosion: Any process that wears away the surface of the land by the action of water, wind, ice, or gravity.

Erosion And Sediment Practice Specifications Or Practice: The management procedures, techniques, and methods to control soil erosion and sedimentation as officially adopted by the city or local watershed group, whichever is more stringent.

Erosion Control: Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Exposed Soil Areas: All areas of the construction site where the vegetation (including trees, shrubs, and brush) has been removed. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site.

Filter Strips: A vegetated section of land designed to treat runoff as overland sheet flow. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.

Final Stabilization: All soil disturbing activities at the site have been completed, and a uniform perennial vegetative cover with a density of seventy percent (70%) of the cover for unpaved areas and areas not covered by permanent structure has been established or equivalent permanent stabilization measures have been employed.

Hydric Soils: Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Hydrophytic Vegetation: Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of

excessive water content.

Impervious Surface: A natural or artificial hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

Land Disturbance Activity: Any land change involving the excavation, transport and filling of fifty (50) or more cubic yards of material that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the jurisdiction of Albertville. The following are not considered to be land disturbance activities:

A. Activities such as home gardens and individual home landscaping, repairs, and maintenance work.

B. Construction, installation, and maintenance of electric, telephone, and cable television utility lines or individual service connection to these utilities, except where over five thousand (5,000) square feet of exposed soil area will result.

C. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops.

D. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles except where over five thousand (5,000) square feet of exposed soil area will result.

E. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have required an approved erosion and sediment control plan, except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with city requirements.

Paved Surface: A constructed hard, smooth surface made of asphalt, concrete or other pavement material. Examples include, but are not limited to, roads, sidewalks, driveways and parking lots.

Permanent Cover: Final stabilization. Examples include grass, gravel, asphalt, and concrete.

Runoff Coefficient: The average annual fraction of total precipitation that is not infiltrated into or otherwise retained by the soil, concrete, asphalt or other surface upon which it falls that will appear at the conveyance as runoff.

Sediment: The product of an erosion process; solid material, both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, or ice, and has come to rest on the earth's surface either above or below water level.

Sediment Control: The methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

Sedimentation: The process or action of depositing sediment caused by erosion.

Soil: The unconsolidated mineral and organic material on the immediate surface of the earth.

Stabilized: The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, or other material that prevents erosion from occurring. Grass seeding is not stabilization.

Stormwater: The precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage (defined in 40 CFR 122.26(b)(13)).

Temporary Protection: The methods employed to prevent erosion. Examples of such protections include: straw, mulch, erosion control blankets, wood chips, and erosion netting.

Urban: Of, relating to, characteristic of, constituting a city.

Vegetated Or Grassed Swales: A vegetated earthen channel that conveys stormwater, while treating the stormwater by biofiltration. Pollutants are removed by both filtration and infiltration.

Waters Of The State: As defined in Minnesota statutes section 115.01, subdivision 22, the term "waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof. (Constructed wetlands designed for wastewater treatment are not "waters of the state". See definition of Wetlands.)

Wetlands: As defined in Minnesota rules section 70750.0130, subpart F, "wetlands" are those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. "Wetlands" must have the following attributes:

A. A predominance of hydric soils;

B. Inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and

C. Under normal circumstances support a prevalence of such vegetation.

STREET: A public right of way for vehicular traffic, whether designated as highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, drive, court or otherwise designated.

STREET WIDTH: The shortest distance between the lines delineating the right of way of a street.

STREETS, ARTERIAL: Those streets carrying larger volumes of traffic and serving as links between various subareas of the city. "Arterial streets" are intended to provide for collection and distribution of traffic between highways and collector streets; hence, regulation of direct access to property is critical.

STREETS, COLLECTOR: Those streets which carry traffic from local streets to the major system of arterials and highways. "Collector streets" primarily provide principal access to residential neighborhoods, including, to a lesser degree, direct land access.

STREETS, CUL-DE-SACS: Those local streets with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

STREETS, LOCAL: Those streets which are used primarily for access to abutting properties and for local traffic movement.

STREETS, MARGINAL ACCESS (SERVICE ROAD): Those local streets which are parallel and adjacent to high volume arterial streets and highways and which provide access to abutting properties and protection from through traffic.

SUBDIVISION: The division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development. This includes resubdivision and, where appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

SURVEYOR: A land surveyor registered under Minnesota state laws.

TRACING: A plat or map drawn on transparent paper, film, or cloth which can be reproduced by using regular reproduction procedure.

TWO-FAMILY DWELLING: A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

UNIT LOTS: Lots created from the subdivision of single-family attached dwellings having different minimum lot size requirements than the conventional base lot within the zoning district.

WATER BODY: All surface waters, water basins, watercourses, and "wetlands" as defined in this section.

WETLAND CONSERVATION ACT (WCA): The Minnesota wetland conservation act of 1991, as may be amended.

ZONING ORDINANCE: The zoning ordinance or resolution controlling the use of land as adopted by the city[2]. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code; Ord. 2009-007, 3-2-2009)

Notes

1 1. See title 2, chapter 2 of this code.

2 1. See appendix A of this code.

11-1-4: INTERPRETATION OF PROVISIONS:

A. Conflicting Provisions: Whenever there is a difference between minimum standards or dimensions specified herein and those contained in other official regulations, resolutions or city code provisions, the most restrictive standards shall apply.

B. Separability: If any section, subsection, sentence, clause or phrase of this title is for any reason held to be invalid or unenforceable as to any person or circumstance, the application of such section, subsection, clause or phrase to persons or circumstances, other than those as to which it shall be held invalid or unenforceable, shall be affected thereby, and all provisions hereof, in all other respects, shall remain valid and enforceable.

C. Measured Distances: All measured distances expressed in feet shall be the nearest tenth of a foot. (Amended Ord. 1988-8, 9-8-1988)

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SECTION:

11-2-1: Approvals Necessary For Acceptance Of Plats

11-2-2: Conditions For Recording

11-2-3: Registered Land Surveys

11-2-4: Metes And Bounds

11-2-5: Unapproved Subdivisions

11-2-6: Variances And Appeals

11-2-7: Fees, Charges And Expenses

11-2-8: Violations; Penalty

11-2-1: APPROVALS NECESSARY FOR ACCEPTANCE OF PLATS:
Before any plat shall be recorded or be of any validity, it shall be referred to the city planning commission and approved by the city council as having fulfilled the requirements of this title. (Amended Ord. 1988-8, 9-8-1988)

11-2-2: CONDITIONS FOR RECORDING:
No plat or any subdivision shall be entitled to record in the Wright County recorder's office or have any validity until the plat or subdivision has been prepared, approved and acknowledged in the manner prescribed by this title. (Amended Ord. 1988-8, 9-8-1988)

11-2-3: REGISTERED LAND SURVEYS:
All registered land surveys shall be filed subject to the same procedure as required for the filing of a preliminary plat for platting purposes[1]. The standards and requirements set forth in this title shall apply to all registered land surveys. Unless the city council approves, a registered land survey shall not be used to divide a parcel of land into lots for the purpose of transfer of ownership or building development if any of the tracts do not have the required frontage on a dedicated public street. (Amended Ord. 1988-8, 9-8-1988)

Notes

1 1. See section 11-6-2 of this title.

11-2-4: METES AND BOUNDS:
Conveyances by metes and bounds shall be prohibited where any industrial lots or parcels involved are less than five (5) acres in area or have a width of less than three hundred feet (300') at the building setback line. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

11-2-5: UNAPPROVED SUBDIVISIONS:
No conveyance of land to which this title is applicable shall be filed or recorded if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961, or to an unapproved plat. This section does not apply to a conveyance if the land described:

A. Was a separate parcel of record January 1, 1988. (Amended Ord. 1988-8, 9-8-1988)

B. Was the subject of a written agreement to convey entered into prior to such time and the conveyance is required by the terms of such agreement. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

C. Was a separate parcel of not less than two and one-half ($2^1/_2$) acres in area and one hundred fifty feet (150') in width on January 1, 1966.

D. Was a separate parcel of not less than five (5) acres in area and three hundred feet (300') in width on July 1, 1980.

E. Is a single parcel of commercial or industrial land of not less than five (5) acres and has a width of not less than three hundred feet (300'), and its conveyance does not result in the division of the parcel into two (2) or more lots or parcels, any one of which is less than five (5) acres in area or three hundred feet (300') in width.

F. Is a single parcel of residential or agricultural land of not less than twenty (20) acres and having a width of not less than five hundred feet (500'), and its conveyance does not result in the division of the parcel into two (2) or more lots or parcels, any one of which is less than twenty (20) acres in area or five hundred feet (500') in width. (Amended Ord. 1988-8, 9-8-1988)

11-2-6: VARIANCES AND APPEALS:

A. Variance Findings: The city council may approve a variance from the minimum standards of this title (not procedural provisions) when, in its opinion, undue hardship may result from strict compliance. In approving any variance, the city council shall prescribe any conditions that it deems necessary to or desirable for the public interest. In making its approval, the city council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be approved when the city council finds:

1. That there are special circumstances or highly unique conditions affecting the property such that the strict application of the provisions of this title would deprive the applicant of the reasonable use of his land.

2. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which property is situated.

3. That the variance is to correct inequities resulting from an unusual physical hardship such as topography. Hardships relating to economic difficulties shall not be considered for the purpose of granting a variance.

4. That the hardship is not a result of an action or actions by the owner, applicant or any agent thereof. (Amended Ord. 1988-8, 9-8-1988)

B. Requests For Variance Or Appeal: Requests for a variance or appeal shall be filed with the city administrator on an official application form. Such application shall be accompanied by a fee as set out in section 3-1-3 of this code. Such application shall also be accompanied by four (4) copies of detailed written and graphic materials including one plan no larger than eleven inches by seventeen inches (11" x 17") necessary for the explanation of the request.

C. Planning Commission Procedures:

1. Upon receiving said application, the city clerk shall refer the application, along with all related information, to the city planning commission for a report and recommendation to the city council as outlined in chapter 4 of this title. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

2. The planning commission shall consider the variance at its next regular meeting unless the filing date falls within fifteen (15) days of said meeting, in which case, the requests would be placed on the agenda and considered at the regular meeting following the next regular meeting. The city administrator shall refer said application, along with all related information, to the city planning commission for consideration and a report and recommendation to the city council.

3. The variance application shall be referred to the city staff for a report and recommendation to be presented to the planning commission.

4. The planning commission and city staff shall have the authority to request additional information from the applicant concerning the variance or to retain expert testimony at the expense of the applicant concerning said variance where said information is declared necessary to ensure preservation of health, safety and general welfare of the city.

5. The city administrator shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper at least ten (10) days prior to said hearing, and individual notices shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property within three hundred fifty feet (350') of the parcel included in the request.

6. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this title.

7. The applicant or a representative thereof shall appear before the planning commission in order to answer questions concerning the proposed variance request.

8. The planning commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this title.

D. City Council Action:

1. The city council shall not grant a variance until they have received a report and recommendation from the planning commission and the city staff or until thirty (30) days after the first regular planning commission meeting at which the request was considered.

2. Upon receiving the report and recommendation of the planning commission and city staff, the city council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the city council meeting.

3. Upon receiving the report and recommendation of the planning commission and city staff, the city council shall make a recorded finding of fact and impose any conditions it considers necessary to protect the public health, safety and welfare of the city.

4. The city council shall decide whether to approve or deny a request for a variance or an appeal within thirty (30) days after the public hearing on said request.

E. Grant Of Variance Or Appeal: A variance of this title or grant of an appeal shall be by a four-fifths ($^4/_5$) vote of the full city council. (Amended Ord. 1988-8, 9-8-1988)

11-2-7: FEES, CHARGES AND EXPENSES:

A. Fees, Charges And Expenses Established: Fees and charges, as well as expenses incurred by the city for engineering, planning, attorney, and other services related to the processing of applications shall be established by ordinance and collected by the zoning administrator for deposit in the city accounts. Fees are as established in section 3-1-3 of this code. The council may also establish charges for public hearings, special meetings, or other such council or planning commission actions as are necessary to process applications.

B. Administrative Fee: Prior to the release of a final plat, the applicant shall pay an administrative fee equal to a percentage established in section 3-1-3 of this code, of the cost of all municipal improvements installed in or on the plat as required by this title. Municipal improvements shall include streets, curb, gutter, sidewalk, sanitary sewer, storm sewer, water main, stormwater ponding and other such items which will be dedicated to the city after their installation. This administrative fee shall be in addition to out of pocket costs incurred by the city such as engineering, planning and attorney fees. The city may, from time to time by resolution, change the amount of the administrative fee set out herein. (Ord. 2017-01, 1-3-2017)

C. Payment Of Fees, Charges And Expenses: Such fees, charges, and estimated expenses (as well as a deposit, if so required by the zoning administrator) shall be collected prior to city action on any application. All such applications must be accompanied by a written agreement between the city and the applicant/landowner (when the applicant is not the same person or entity as the landowner, both the landowner and the applicant must sign the agreement) whereby the applicant/landowner agrees to pay all applicable fees, charges, and administrative, planning, engineering and legal expenses associated with the review and processing of the development application, if these expenses exceed the application escrow, and which allows the city to assess said fees, charges and expenses against the landowner if such monies are not paid within thirty (30) days after a bill is sent to the applicant/landowner.

D. Fees, Charges And Expenses Are Additional: These fees shall be in addition to sewer access charges, sewer and water trunk charges, building permit fees, inspection fees, subdivision fees, charges, and expenses, and other such fees, charges, and expenses currently required by ordinance or which may be established by ordinance in the future. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code; Ord. 2017-01, 1-3-2017)

11-2-8: VIOLATIONS; PENALTY:

A. Sale Of Lots From Unrecorded Plats: It shall be a misdemeanor to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or replat of any subdivision or area located within the jurisdiction of this title unless said plan, plat or replat shall have first been recorded in the office of the recorder of Wright County.

B. Receiving Or Recording Unapproved Plats: It shall be unlawful for a private individual to receive or record in any public office any plans, plats of lands laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this title, unless the same shall bear thereon, by endorsement or otherwise, the approval of the city council.

C. Misrepresentations: It shall be a misdemeanor for any person owning an addition or subdivision of land within the city to represent that any improvement upon any of the streets, alleys or avenues of said addition or subdivision has been constructed according to the plans and specifications approved by the city council, or has been supervised or inspected by the city, when such improvements have not been so constructed, supervised or inspected.

D. Misdemeanor Violation: Anyone violating any of the provisions of this title shall be guilty of a misdemeanor. Each month during which compliance is delayed shall constitute a separate offense. (Amended Ord. 1988-8, 9-8-1988)

CHAPTER 3

MINOR SUBDIVISIONS

SECTION:

11-3-1: Qualification

11-3-2: Content And Data Requirements

11-3-3: Design Standards

11-3-4: Processing

11-3-1: QUALIFICATION:

This chapter shall apply to the following applications:

A. In the case of a request to divide a portion of a lot where the division is to permit the adding of a parcel of land to an abutting lot so that no additional lots are created and both new lots conform to zoning ordinance lot size minimum standards.

B. In the case of a request to combine two (2) existing platted lots. (Amended Ord. 1988-8, 9-8-1988)

C. In the case of a request to divide a lot from a larger tract of land and thereby creating no more than two (2) lots. To qualify, the parcel of land shall not have been part of a subdivision within the last five (5) years. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

D. In the case of a request to divide a base lot which is a part of a recorded plat upon which has been constructed a two-family dwelling, townhouse or quadraminium, where the division is to permit individual private ownership of a single dwelling unit within such a structure, and the newly created property lines will not cause any of the unit lots or the structure to be in violation of this title, the zoning ordinance, or the state building code. (Amended Ord. 1988-8, 9-8-1988)

11-3-2: CONTENT AND DATA REQUIREMENTS:

A. Certificate Of Survey: The requested minor division shall be prepared by a registered land surveyor in the form of a certificate of survey.

B. Property Description And Submission Information: The data and supportive information detailing the proposed subdivision shall be the same as required for a preliminary plat as described in section 11-4-2 of this title. Exceptions, as stipulated in writing, may be granted by the city administrator. (Amended Ord. 1988-8, 9-8-1988)

11-3-3: DESIGN STANDARDS:

The minor subdivision shall conform to all design standards as specified in this title[1]. Any proposed deviation from said standards shall require the processing of a variance request. (Amended Ord. 1988-8, 9-8-1988)

Notes

1 1. See chapter 7 of this title.

11-3-4: PROCESSING:

A. If the land division involves property which has been previously platted, or the total property area involved is greater than ten (10) acres, the city administrator shall have the authority to approve the subdivision; provided, that it complies with applicable provisions of this title.

B. In the case of applications involving property not previously platted, and less than ten (10) acres in total area, applicable processing provisions of section 11-4-2 of this title, preliminary platting, shall be followed. (Amended Ord. 1988-8, 9-8-1988)

CHAPTER 4

SUBDIVISION PLATTING PROCEDURES

SECTION:

11-4-1: Sketch Plan

11-4-2: Preliminary Plat

11-4-3: Final Plat

11-4-1: SKETCH PLAN:
In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this title and the requirements or limitations imposed by other city code provisions or plans, prior to the development of a preliminary plat, all applicants shall present a sketch plan to the city administrator prior to filing a preliminary plat. The city administrator may refer said sketch plan to city staff, the planning commission and/or the city council for review or comments. (Amended Ord. 1988-8, 9-8-1988)

11-4-2: PRELIMINARY PLAT:
A. Filing:

1. The applicant, or his surveyor or his planner or another designated agent, shall prepare and file a plat which is in conformity with the requirements of this title. The applicant must demonstrate to the city ownership of the land in question or show the legal and written power to file a preliminary plat application for the land in question.

2. The applicant also shall complete an "Application For Consideration Of Planning Request", and/or such other application form as may be required, and shall submit any additional information, plans or studies as are required by this title, and shall furnish the city administrator with ten (10) copies of the plat and one reduced copy of the plat no larger than eleven inches by seventeen inches (11" x 17").

3. The applicant shall submit a list of property owners located within three hundred fifty feet (350') of the subject property. The records of the county recorder shall be deemed sufficient for determining the location and ownership of all such properties.

4. The applicant shall submit any necessary applications and information for variances from the provisions of this title, as set out in section 11-2-6 of this title. Such a request may be heard during the review of the proposed subdivision. (Amended Ord. 1988-8, 9-8-1988)

5. Prior to consideration of the proposed plat by the city, the applicant shall pay the required filing fee as set out in section 3-1-3 of this code. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

6. The plat shall be considered as being officially submitted when all of the information requirements are complied with and the appropriate fees paid.

7. Whenever an application for a subdivision (concept plan or preliminary plat) has been considered and denied by the city council, a similar application and proposal for a land division affecting either a portion or all of the same property shall not be considered again by the planning commission or city council for at least one year from the date of its denial, except as follows:

a. Applications are withdrawn prior to the city council taking action on the matter.

b. If the city council determines that the circumstances surrounding a previous application have changed significantly.

c. If the city council decides to reconsider such matter by a four-fifths ($^4/_5$) vote of the entire city council.

B. Hearing: Upon receipt of the completed application as outlined in subsection A of this section, the city administrator shall set a public hearing for public review of the preliminary plat. The hearing shall be held after adequate time has been allowed for staff and planning commission review of the plat, but within forty five (45) days of the completed filing of the application. The applicant and/or his representative(s) shall appear at the public hearing before the planning commission in order to answer questions concerning the proposal. Notice of the hearing shall consist of a legal property description, description of request and shall be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of the hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty feet (350') of the boundary of the property in question. Failure of any property owner to receive said notice shall not invalidate the public hearing.

C. Technical Assistance Reports: The city administrator may instruct the appropriate staff to prepare technical reports and provide general assistance in preparing a recommendation on the action to the city council. This may include the city planner, city engineer, city building official, or the city attorney, among others.

D. Review By Other Jurisdictions: The city administrator shall refer copies of the preliminary plat to county, state or other public jurisdictions for their review and comment, where appropriate and when required. This may include the state commissioner of natural resources and the watershed district board.

E. Planning Commission Action: The planning commission shall report its findings and make its recommendation to the city council no later than thirty (30) days after the close of public hearing described in subsection B of this section. If the planning commission has not acted upon the preliminary plat within thirty (30) days following the close of public hearing on such and in compliance with this title, the council may act on the preliminary plat without the planning commission's recommendation.

F. City Council Action:

1. The council shall approve or disapprove the preliminary plat within one hundred twenty (120) days following delivery of an application completed in compliance with this title unless an extension of the review period has been agreed to by the applicant.

2. If the preliminary plat is not approved by the city council, the reasons for such action shall be recorded in the proceedings of the council and shall be transmitted to the applicant. If the preliminary plat is approved, such approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this title to be indicated on the final plat. The city council may impose such conditions and restrictions as it deems appropriate or require such revisions or modifications in the preliminary plat or final plat as it deems necessary to protect the health, safety, comfort, general welfare and convenience of the city.

3. The city council reserves the right to decline approval of a subdivision if due regard is not shown for the preservation of all natural features, such as topography, trees, watercourses, scenic points, historical spots and similar community assets, which, if preserved, will add attractiveness

and stability to the proposed development of the property.

4. Following city council approval of a preliminary plat, the applicant must submit a final plat to the city administrator within one hundred (100) days of preliminary approval unless otherwise specified as part of a development agreement. If this procedure is not followed, then approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the city council.

5. Should the applicant desire to amend a preliminary plat as approved, the applicant may submit an amended preliminary plat. No public hearing or fee will be required unless the amendment, in the opinion of the city council, is of such scope as to constitute a new preliminary plat. (Amended Ord. 1988-8, 9-8-1988)

11-4-3: FINAL PLAT:

A. Filing:

1. After the preliminary plat has been approved, the final plat shall be submitted for review as set forth in the this section. The city may agree to review the preliminary and final plats simultaneously. The final plat shall incorporate all changes, modifications and revisions required by the city. Otherwise, it shall conform to the approved preliminary plat. (Amended Ord. 1988-8, 9-8-1988)

2. Unless the following requirement is modified as part of a development contract, the submission of a complete final plat application shall be no later than one hundred (100) days after the date of approval of the preliminary plat for distribution to the city council and appropriate city staff. Ten (10) copies of the final plat and one reduced copy, no larger than eleven inches by seventeen inches (11" x 17"), shall be submitted to the city administrator for city review. Failure to timely submit a complete final plat application shall result in the expiration of the preliminary plat approval. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

B. Compliance With Provisions: All final plats shall comply with the provisions of Minnesota state statutes and requirements of this title.

C. Title Or Registered Certificate Required: An applicant shall submit with the final plat a current abstract of title or a registered property certificate, along with any unrecorded documents, and an opinion of title. (Amended Ord. 1988-8, 9-8-1988)

D. Review Of Final Plat:

1. Upon receipt of a final plat, the city administrator shall refer one copy each to the city council, appropriate city staff, the county surveyor, and the watershed district board, if applicable, and to all applicable utility companies, and one copy, with abstract of title or registered property certificate and opinion title, to the city attorney.

2. The city council may refer the final plat to the planning commission for recommendation if they feel the proposed final plat is substantially different from the approved preliminary plat. The planning commission shall submit a report thereon to the city council within forty five (45) days.

3. The city staff receiving final plat copies shall submit reports through the city administrator to the city council within fifteen (15) days, expressing their recommendation on the final plat.

4. The county surveyor shall review the final plat and notify the subdivider's surveyor or final plat preparer of corrections that are to be made to the final plat.

5. Prior to approval of a final plat, the applicant shall have executed an agreement with the city controlling the installation of all required improvements. Said agreement will require all improvements to comply with approved engineering standards and applicable regulations.

6. The city council shall take action on a final plat not more than sixty (60) days after the plat is filed with the city administrator. If the final plat is not approved, the reasons for such action shall be recorded in the official proceedings of the city and shall be transmitted to the applicant.

7. Upon receiving an approved final plat in conformance with the requirements of the county surveyor, representatives of the city shall sign the plat, and the applicant, as a condition of approval, shall record it with the county registrar of titles within one hundred twenty (120) days, or the approved final plat shall be considered void. If recording is not accomplished according to these procedures, the city may require another review of the proposed subdivision according to this title and state law.

8. The applicant, immediately upon recording, shall furnish the city administrator with a reproducible copy of the recorded final plat, either chronoflex or its equivalent, and two (2) prints. Failure to furnish such copies shall be grounds for refusal to issue building permits for the lots within a plat. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

CHAPTER 5

PREMATURE SUBDIVISIONS

SECTION:

11-5-1: Qualification

11-5-2: Conditions Establishing Premature Subdivision

11-5-3: Burden Of Establishing Premature Subdivision

11-5-1: QUALIFICATION:

Any preliminary plat of a proposed subdivision deemed premature for development shall be denied by the city council. (Amended Ord. 1988-8, 9-8-1988)

11-5-2: CONDITIONS ESTABLISHING PREMATURE SUBDIVISION:

A subdivision may be deemed premature should any of the conditions set forth in the following provisions exist:

A. Lack Of Adequate Drainage:

1. A condition of inadequate drainage shall be deemed to exist if: (Amended Ord. 1988-8, 9-8-1988)

a. Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures, including streets, sidewalks and utilities. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

b. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.

c. The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downstream land.

2. Factors to be considered in making these determinations may include:

a. Average rainfall for the area;

b. The relation of the land to floodplains;

c. The nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems;

d. The slope of the land and its effect on effluents; and

e. The presence of streams as related to effluent disposal.

B. Lack Of Adequate Water Supply: A proposed subdivision shall be deemed to lack an adequate water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation of existing water supplies for surrounding areas.

C. Lack Of Adequate Roads Or Highways To Serve Subdivision: A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:

1. Roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or aggravate an already hazardous condition, and when, with due regard to the advice of Wright County and/or the Minnesota department of transportation, said roads are inadequate for the intended use; or

2. The traffic volume generated by the proposed subdivision would create unreasonable highway congestion or unsafe conditions on highways existing at the time of the application or proposed for completion within the next two (2) years.

D. Lack Of Adequate Waste Disposal Systems: A proposed subdivision shall be deemed to lack adequate waste disposal systems if, in subdivisions for which sewer lines are proposed, there is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density indicated in the Albertville comprehensive plan, as may be amended.

E. Inconsistency With Comprehensive Plan: The proposed subdivision is inconsistent with the purposes, objectives and recommendations of the duly adopted comprehensive plan of Albertville, as may be amended.

F. Providing Public Improvements: If public improvements, such as recreational facilities, streets and utilities, reasonably necessitated by the subdivision, which must be provided at public expense, cannot be provided for within the next two (2) fiscal years.

G. MEQB Policies: The proposed subdivision is inconsistent with the policies of the Minnesota environmental quality board (MEQB), as may be amended, and could adversely impact critical environmental areas or potentially disrupt or destroy historic areas which are designated or officially recognized by the city council in violation of federal and state historical preservation laws. (Amended Ord. 1988-8, 9-8-1988)

11-5-3: BURDEN OF ESTABLISHING PREMATURE SUBDIVISION:
The burden shall be upon the applicant to show that the proposed subdivision is not premature. (Amended Ord. 1988-8, 9-8-1988)

CHAPTER 6

PLAT AND DATA REQUIREMENTS

SECTION:

11-6-1: Sketch Plan

11-6-2: Preliminary Plat

11-6-3: Final Plat

11-6-4: Certificates Required

11-6-1: SKETCH PLAN:
Sketch plans shall contain, at a minimum, the following information:

A. Plat boundary.

B. North arrow.

C. Scale.

D. Street layout on and adjacent to plat. Where the subdivider owns property adjacent to that which is being proposed for the subdivision or where adjacent lands will be impacted by the proposed subdivision, it shall be required that the subdivider submit a sketch plan for the adjacent property so as to show the possible relationships between the proposed subdivision and future, existing or potential adjacent subdivisions and land uses.

E. Designation of land use and current and proposed zoning.

F. Significant topographical or physical features.

G. General lot locations and layout.

H. Preliminary evaluation by the applicant that the subdivision is not classified as premature based upon criteria established in section11-5-2 of this title. (Amended Ord. 1988-8, 9-8-1988)

11-6-2: PRELIMINARY PLAT:
The applicant shall prepare and submit a preliminary plat, together with any necessary supplementary information. The preliminary plat shall contain the following information:

A. General Requirements:

1. The proposed name of the subdivision; names shall not duplicate or be alike in pronunciation to the name of any plat heretofore recorded in the county.

2. Location of boundary lines in relation to a known section, quarter section or quarter-quarter section line comprising a legal description of the property.

3. Name, address and phone number of the record owner, any agent having control of the land, the applicant, land surveyor, engineer and designer of the plan.

4. Graphic scale not less than one inch to one hundred feet (1" = 100').

5. North point and key map of the area showing well known geographical points for orientation within a one-half ($^1/_2$) mile radius.

6. Date of preparation.

B. Existing Conditions:

1. Boundary line and total acreage of proposed plat, clearly indicated.

2. Existing zoning classifications for land in and abutting the subdivision.

3. Approximate total acreage.

4. Location, right of way width and names of existing or platted streets or other public ways, parks and other public lands, permanent buildings and structures, easements and section, corporate and school district lines within the plan, to a distance one hundred feet (100') beyond the plat.

5. Location and size of existing sewers, water mains, culverts or other underground facilities within the preliminary plat area and to a distance of one hundred feet (100') beyond. Such data as grades and locations of catch basins, manholes, hydrants and street pavement width and type shall also be shown.

6. Boundary lines of adjoining unsubdivided or subdivided land within one hundred feet (100'), identified by name and ownership, including all contiguous land owned or controlled by the subdivider.

7. Topographic data, including contours at vertical intervals of not more than two feet (2') shown on a contour/topographic map. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. USGS datum shall be used for all topographic mapping where feasible.

8. A statement certifying the environmental condition of the site, including the presence of any "hazardous substance" as defined in Minnesota statutes section 115B.02, subdivision 8. Such statement may be required to be based upon an environmental assessment of the site by a qualified environmental engineering firm which is acceptable to the city.

C. Proposed Design Features:

1. Layout of proposed streets showing the right of way widths, centerline gradients, typical cross sections, proposed road improvements, including turning and passing lanes, traffic signals and medians, and proposed names of streets in conformance with city and county street identification policies. The name of any street heretofore used in the city or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event, the same name shall be used.

2. Locations and widths of proposed pedestrianways.

3. Locations and size of proposed sewer lines and water mains. (Design work to be completed by the city engineer if a city project.)

4. Gradients of proposed streets, sewer lines and water mains, as requested. (Design work to be completed by the city engineer if a city project.)

5. Location, dimension and purpose of all easements.

6. Layout, numbers, lot areas and preliminary dimensions of lots and blocks.

7. Minimum front and side street building setback lines.

8. When lots are located on a curve, the width of the lot at the building setback line.

9. Areas, other than streets, pedestrianways, and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.

10. Water mains shall be provided to serve the subdivision by extension of the existing city water system. Service connections shall be stubbed to the property line, and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the city[1].

11. Sanitary sewer mains and service connections shall be installed in accordance with the standards of the city[2].

12. Grading plan which shall include the proposed grading and drainage of the site. Also to be stipulated are the garage floor and basement elevations of all structures. (Amended Ord. 1988-8, 9-8-1988)

13. Provisions for surface water ponding, drainage and flood control. Drainage plans shall include a delineation of all ponds, infiltration facilities, ditches, public waters and wetlands located on and adjacent to the site, including the normal water level (NWL), the 100-year high water level (HWL), and the ordinary high water level (OHW).

14. A stormwater pollution prevention plan shall be submitted for review and approval by the city engineer in the following cases: Subdivision applications for projects containing one or more acres of land. Said plan shall conform to the requirements of section 11-7-12 of this title. (Ord. 2009-007, 3-2-2009)

D. Compliance With Provisions: The items listed in this section shall be in conformance with all other applicable sections of this title.

E. Platting Adjoining Lands: A preliminary plat shall contain the entire tax parcel to be platted plus all of the owner's contiguous lands unless such lands are subject to a planned unit development or the city planner and city engineer agree to waive such requirement. The final plat may cover only a portion of the preliminary plat, provided it is in conformance with the approved preliminary plat, development contract and other requirements herein.

F. Traffic Impacts: The applicant shall provide the city with one of the following:

1. A complete traffic study, modeled on Synchro/Simtraffic software, with up to date and accurate inputs of average daily vehicle trips on the following roadways, including projected average daily vehicle trips to and from the property proposed to be platted assuming full development of such property: 50th and 57th Streets, County Highways 18, 19, 35 and 37. All traffic count modeling shall be performed for the following three (3) time periods: A.M. peak, P.M. peak, and twenty four (24) hour. The traffic study shall also model the improvements deemed reasonably necessary by the city engineer to facilitate the traffic proposed to be generated by the property proposed to be platted; or

2. Developer shall provide the city with projected average daily vehicle trips to and from the property proposed to be platted assuming full

development, said vehicle trips to be broken down into the following three (3) time periods: A.M. peak, P.M. peak, and twenty four (24) hour. The developer shall pay the cost incurred by the city in updating the Synchro/Simtraffic traffic model developed by SEH, Inc., and shall pay the city a portion of the cost paid by the city to develop the Synchro/Simtraffic traffic model, said portion to be equal to eighty six dollars ($86.00) per gross acre of land to be platted.

G. Supplementary Information: Any or all of the supplementary information requirements set forth in this subsection shall be submitted when deemed necessary by the city staff, consultants, advisory bodies and/or city council:

1. Proposed protective covenants or private restrictions.

2. A survey prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density and spacing. A vegetation preservation and protection plan that shows those trees proposed to be removed and those to remain. The types and locations of trees and other vegetation that are to be planted may also be required.

3. Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population. The city may require the applicant or developer to have formal traffic or other studies performed to the city's satisfaction which show the effect of the proposed development on traffic, fire hazards and congestion.

4. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any rights in the applicant.

5. Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the preliminary plat shall indicate a logical way in which the lots could possibly be resubdivided in the future.

6. A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system. Such plans are to be in accordance with the technical standards and specifications of the soil conservation service, as provided by the Wright County soil and water conservation district office.

7. When the city has agreed to install improvements in a development, the developer may be required to furnish a financial statement, satisfactory to the city, indicating the developer's ability to develop the plat.

8. An environmental assessment worksheet shall be submitted if the city, city consultants, Minnesota environmental quality board or other groups or agencies determine that one is required by law.

9. Statements and supporting documentation and plans for variances, conditional use permits or planned unit development approvals being sought for the subdivision.

10. Such other information as may be required by city staff. (Amended Ord. 1988-8, 9-8-1988)

Notes

1 1. See title 9, chapter 2 of this code.

2 2. See title 9, chapter 3 of this code.

11-6-3: FINAL PLAT:
The owner or applicant shall submit a final plat, together with any necessary supplementary information. The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota state statutes and Wright County regulations, and such final plat shall contain the following information:

A. Name of the subdivision, which shall not duplicate or too closely approximate the name of any existing plat heretofore recorded in the county.

B. Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions.

C. The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments.

D. Location of lots, outlots, streets, public highways, and parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.

E. Lots shall be numbered clearly; blocks are to be numbered, with numbers shown clearly in the center of the block.

F. The exact locations, widths and names of all streets to be dedicated.

G. Location, purpose and width of all easements to be dedicated.

H. Name and address of surveyor preparing the lot.

I. Scale of plat (the scale to be shown graphically on a bar scale), date and north arrow.

J. Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements".

K. Statement dedicating all streets and other public areas not previously dedicated as follows: Streets and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated. (Amended Ord. 1988-8, 9-8-1988)

11-6-4: CERTIFICATES REQUIRED:
The following certificates are required:

A. Certification by registered surveyor in the form required by Minnesota statutes section 505.03, as amended.

B. Execution by all owners of any interest in the land and holders of a mortgage thereon of the certificates required by Minnesota statutes section 505.03, as amended, and which certificate shall include a dedication of the utility easements and other public areas in such form as approved by the city council.

C. Space for certificates of approval and review to be filled in by the signatures of the mayor and city administrator in the following form:

For Approval of the City:

This plat of (name of plat) was approved and accepted by the City Council of Albertville, Minnesota, at a regular meeting thereof held this__ day of _____, 20__.

CITY COUNCIL OF ALBERTVILLE, MINNESOTA

By: _____ Mayor

By: _____ City Administrator or City Clerk

(Amended Ord. 1988-8, 9-8-1988)

CHAPTER 7

DESIGN STANDARDS

SECTION:

11-7-1: Compliance With Comprehensive Plan And Zoning Ordinance

11-7-2: Minimum Design Requirements

11-7-3: Land Requirements

11-7-4: Blocks

11-7-5: Lots

11-7-6: Streets

11-7-6-1: Cul-De-Sac/Dead End Streets

11-7-6-2: Street Design

11-7-7: Street Names

11-7-8: Parks And Trails

11-7-8-1: Design Standards

11-7-8-2: Dedication Requirements

11-7-9: Water And Sewer Systems

11-7-10: Drainage System

11-7-11: Easements

11-7-12: Erosion And Sediment Control

11-7-13: Protected Areas

11-7-1: COMPLIANCE WITH COMPREHENSIVE PLAN AND ZONING ORDINANCE:
A proposed subdivision shall conform to the comprehensive plan and related policies adopted by the city and to the official zoning ordinance of the city. (Amended Ord. 1988-8, 9-8-1988)

11-7-2: MINIMUM DESIGN REQUIREMENTS:
The design features set forth in this chapter are minimum requirements. The city may impose additional or more stringent requirements concerning lot size, streets and overall design as deemed appropriate, considering the property being subdivided, based upon site considerations and the Albertville comprehensive plan. (Amended Ord. 1988-8, 9-8-1988)

11-7-3: LAND REQUIREMENTS:
A. Land shall be suited to the purpose for which it is to be subdivided. No plan shall be approved if the site is not suitable for the purposes proposed by reason of potential flooding, topography, wetlands, or adverse soil or rock formation.

B. Land subject to hazards to life, health or property shall not be subdivided until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the subdivision plan.

C. Proposed subdivisions shall be coordinated with existing nearby municipalities or neighborhoods so that the city, as a whole, may develop efficiently and harmoniously. (Amended Ord. 1988-8, 9-8-1988)

11-7-4: BLOCKS:
Block length and width or acreage within bounding streets shall be such as to accommodate the size of residential lots required in the area by the zoning ordinance and to provide for convenient access, circulation control and safety of street traffic. (Amended Ord. 1988-8, 9-8-1988)

A. Block Length: In general, intersecting streets shall be provided at such intervals so as to serve cross traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions, other than those with lake frontage, shall not exceed one thousand two hundred feet (1,200') nor be less than six hundred feet (600') in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than nine hundred feet (900'), ten foot (10') wide pedestrian rights of way and/or easements through the block may be required in locations deemed necessary for the public health, convenience and necessity. Suitable surfacing and fencing shall be provided in pedestrianways and shall be subject to city review.

B. Block Width: The width of the block shall normally be sufficient to allow two (2) tiers of lots of minimum depth as required by the zoning ordinance except adjoining a lake, stream, railroad or arterial street or where one tier or lot is necessary because of topographic conditions. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off street parking, deliveries and loading. Such facilities shall be provided with safe and convenient limited access to the street system. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

11-7-5: LOTS:

A. Area, Width And Depth: The minimum lot area, width and depth shall not be less than that established by the city zoning ordinance in effect at the time of adoption of the final plat.

B. Side Lot Lines: Side lines of lots shall be at right angles to street lines, radial to curved street lines, or radial to lake or stream shores unless topographic conditions necessitate a different arrangement.

C. Building Sites: Each lot shall provide an adequate building site, excluding drainagecourse and wetlands, and said building site shall be at least one and one-half feet ($1\frac{1}{2}$') above the street grade.

D. Butt Lots: Butt lots in any subdivision are to be discouraged. Where such lots must be used to fit a particular type of design, they shall be platted at least twenty feet (20') wider than the average width of interior lots in the block.

E. Frontage On Public Street: Every lot must have the minimum frontage on a city approved public street other than an alley, as required in the city zoning ordinance.

F. Setback Lines: Setback or building lines shall be shown on all lots and shall not be less than the setback required by the city zoning ordinance, as may be amended. (Amended Ord. 1988-8, 9-8-1988)

G. Drainagecourses, Ponding Areas, Channels: Lots abutting a drainagecourse, ponding area, drainageway, or channel shall have additional depth and width, as required under the provisions of the city zoning ordinance to assure building sites that are not subject to flooding. Lots abutting a water body or watercourse shall contain adequate lot area which is capable of accommodating structure elevations meeting the criteria in subsection 1000.9D of the city zoning ordinance (see appendix A of this code). (Ord. 2009-007, 3-2-2009)

H. Lakeshore Frontage: Lots with lakeshore frontage shall be designed so that the lot lines extended shall maintain the closest approximation to riparian rights.

I. Natural Features: In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

J. Lot Remnants: All remnants of lots below minimum size for the respective zoning district in which they are located must be added to abutting lots or lots immediately adjoining, separated only by a public right of way. In those cases where parcels are separated by a public right of way, the lot remnant shall be designated as an outlot. Lot remnants may be allowed if a plan for future use is found acceptable by the city council.

K. Political Boundaries: No singular plat shall extend over a political boundary or school district line.

L. Double Frontage Lots: Double frontage, or lots with frontage on two (2) parallel or nonintersecting streets, shall not be permitted except: where lots back on arterial streets or highways, or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall comply with buffer yard requirements as established in subsection 1000.7K of the zoning ordinance (see appendix A of this code).

M. Turnaround Access: Where proposed residential lots abut a collector street, they should be platted in such a manner as to encourage turnaround access and egress on each lot and discourage direct access onto such streets.

N. Access To Arterial Streets: In the case where a proposed plat is adjacent to a limited access highway, other major highway, or other arterial street, there shall be no direct vehicular access from individual lots to such streets and roads. In the platting of small tracts of land fronting on limited access highways or where there is no other alternative, a temporary entrance may be granted. As neighboring land becomes subdivided and more preferable access arrangements become possible, such temporary access permits shall become void.

O. Outlots: The creation of outlots is to be discouraged. In such cases where outlots are created or exist, their area shall not be utilized in calculating minimums for buildable lot area requirements. Said outlots are also prohibited from qualifying for building permits except for public uses and private recreational uses accessory to allowable uses within the respective zoning district and which are properties under common ownership. In those cases where outlots are located within a shoreland overlay district, they shall comply with the minimum shoreland overlay district requirements.

P. Irregular Shaped Lots: On single-family residential lots determined to be irregular in shape (i.e., triangular), the developer shall demonstrate to the city an ability to properly place principal buildings and accessory structures upon the site which are compatible in size and character to the surrounding area.

Q. Required Yard Setback Infringements: All single-family residential lots shall be designed in consideration of potential for buildings accommodating three (3) car garages, porches and decks, etc. Said buildings and structures are to be compatible in size and character with the surrounding area.

R. Combining Or Resubdividing Lots:

1. Contiguous lots or parcels zoned commercial, industrial, or public/institutional which are under the same ownership shall be combined or resubdivided into a single parcel in accordance with the minor subdivision or platting requirements of this title, under the following circumstances:

a. When application for site and building plan, conditional use permit, variance, zoning amendment, or other formal application is made with the city and formal review by the city planner is required;

b. Where the lots do not meet the minimum size requirements of the zoning district in which they are located; or

c. Where two (2) or more lots are developed and utilized for a single business, public/institutional or industry use.

2. Commercial, industrial and public/institutional parcels (except schools and public recreational facilities) being resubdivided or combined as outlined under this subsection shall be subject to park and trail dedication requirements according to section 11-7-8-2 of this chapter. (Amended Ord. 1988-8, 9-8-1988)

11-7-6: STREETS:

A. Compliance With State And County Plans: Proposed streets shall conform to state and county highway plans which have been prepared, adopted and/or filed as prescribed by law.

B. Topography: Streets shall be logically related to the topography so as to produce usable lots and reasonable grades.

C. Required Access: Access shall be given to all lots and portions of the tract in a subdivision and to adjacent unsubdivided parcels, unless the topography clearly indicates that such connection is not feasible. Reserved strips and landlocked areas shall not be created.

D. Adjacent Street Connection: The arrangement of streets in new subdivisions shall make provision for the appropriate continuation of existing streets in adjoining areas.

E. Connection To Adjoining Areas: Where adjoining areas are not subdivided but may be subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new

subdivision at appropriate locations. A temporary turnaround facility may be required at the closed end, in conformance with cul-de-sac requirements.

F. Second Access Required: A residential plat within which single or multiple roadways are to be continued in the future as subsequent development phases are implemented shall not create dead end access situations limited by a single location for ingress and egress to major collector or arterial roadways.

1. No more than twenty five (25) units on local streets and no more than fifty (50) units on minor collector streets may be developed within a single plat without providing a second street access into/out of the subdivision. The developer shall be limited by the issuance of building permits as regulated by the city building official.

2. Upon issuance of the twenty fifth building permit within a plat, the developer shall be required to construct a secondary access street. No other building permits will be issued within current or future phases of the plat until the secondary access road is in place. The limitation on building permits shall not prevent the developer or landowner from planning or platting land unrelated to the affected plat and located in other portions of the city.

3. Under this subsection, all streets to provide either the primary or secondary access shall be constructed to city standards and paved with asphalt. The required secondary access street shall coincide with the approved plan for permanent street location.

4. In no case shall an abutting landowner be allowed to plat new residential lots adjacent to a plat whereby the addition of lots would increase the number of units located on a dead end street or intensify the negative effects upon adjoining, established neighborhoods. Adjacent development by adjoining landowners shall be permitted if the plat provides for the second access required herein.

5. Without the provision of adequate vehicular access, the remaining portions or phases of the subdivision may be deemed premature according to chapter 5 of this title.

G. Relation Of Streets To Proposed Uses: Local streets shall be laid out to discourage their use by through traffic. The arrangement of arterial and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of stormwater, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.

H. Resubdivision Of Large Lots And Parcels: When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.

I. Half Or Partial Streets:

1. Prohibited Generally: Half or partial streets will not be permitted except where essential to reasonable subdivision of a tract in conformance with the other requirements and standards of this title and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.

2. Completion Of Existing Partial Streets: Wherever a tract to be subdivided adjoins an existing half or partial street, the part of the street within such tract shall be platted.

J. Dead End Streets Prohibited: Dead end streets shall be prohibited except as stubs to permit future street extension into adjoining tracts with possible temporary cul-de-sacs, as determined by the city, or when designed as cul-de-sac streets.

K. Private Streets Prohibited: Private streets and reserve strips, except in the case of planned unit developments, shall be prohibited, and no public improvements shall be approved for any private street. All streets shall be dedicated for public use. If any person applies to subdivide or replat any land or parcels adjoining an existing private street, the private street shall be required to be dedicated for public use and scheduled for improvement to public street standards at the time of final plat.

L. Plats Abutting Arterial Roadways Or Railroad Rights Of Way: Where a subdivision abuts or contains an existing or planned major arterial street or a railroad right of way, a street approximately parallel to and on each side of such arterial and right of way may be required for adequate protection of residential properties and separation of through and local traffic. Such service streets shall be located at a distance from the major arterial or railroad right of way suitable for appropriate use of the intervening land, as for park purposes in residential districts, or for commercial and industrial purposes in appropriate districts. Such distances shall also be determined with due regard to the requirements of approach grades and future grade separations.

M. Platting Of Adjacent Property: The street design shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

N. Road Improvements: Whenever a proposed subdivision and accompanying development is expected to generate additional traffic on roads within the city, the applicant shall construct, at his expense, road improvements reasonably necessary to offset the impacts the additional traffic is expected to have on traffic flow on streets within the city. (Amended Ord. 1988-8, 9-8-1988)

11-7-6-1: CUL-DE-SAC/DEAD END STREETS:

A. Dead End Streets Prohibited: Permanent dead end streets without cul-de-sac turnarounds shall be prohibited. Temporary dead end streets shall only be allowed when in compliance with subsection 11-7-6E of this chapter regarding dead end streets in residential subdivisions.

B. Permanent Cul-De-Sacs:

1. Criteria For Construction: Permanent cul-de-sacs shall be allowed only where one or more of the following criteria have been met:

a. Physical site conditions warrant a cul-de-sac.

b. A through street is not physically feasible or desirable due to environmental considerations.

2. Requirements: Cul-de-sac streets, permanently designed as such, shall not exceed six hundred feet (600') in length, including a terminal turnaround which shall be provided at the closed end, with a right of way radius of not less than sixty feet (60'). The length shall be measured along the centerline from the nearest intersection to the center point of the cul-de- sac.

C. Temporary Cul-De-Sacs: Where a temporary cul-de-sac is required, the turnaround right of way shall be placed adjacent to a plat boundary line and a right of way of the same width as the street shall be carried to said property line in such a way as to permit future extension of the street into the adjoining tract. At such time as such a street is extended, the acreage coverage by the turnaround outside the boundaries of the extended street shall revert in ownership to the property owner fronting on the temporary turnaround. (Amended Ord. 1988-8, 9-8-1988)

11-7-6-2: STREET DESIGN:

A. Width:

1. Minimum Widths: Minimum right of way widths and pavement widths (back to back of curb) for each type of public street or road shall be as

follows:

Type Of Street	Right Of Way Width	Pavement Width (Curb To Curb)
Type Of Street	Right Of Way Width	Pavement Width (Curb To Curb)
Arterial	100 feet	44 feet, or as determined by traffic needs
Collector	80 feet	44 feet
Commercial/industrial service	80 feet	44 feet
Minor collector	70 feet	36 feet
Local	60 feet	36 feet
Local (with sidewalk in ROW)	60 feet	34 feet
Marginal access	50 feet	28 feet
Cul-de-sac	60 foot turnaround radius	48 feet

2. Inadequate Width: Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the standards of subsection A1 of this section.

3. Additional Width: Additional right of way and roadway widths may be required to promote public safety and convenience when special conditions require it.

B. Restriction Of Access: Access of local streets onto arterial and collector streets shall be discouraged at intervals of less than five hundred feet (500').

C. Street Jog: Street jogs with centerline offsets of less than one hundred fifty feet (150') shall not be allowed.

D. Deflection: When connecting street lines deflect from each other at any one point by more than ten degrees (10°), they shall be connected by a curve with a radius of not less than one hundred feet (100').

E. Grades: Centerline gradients shall be at least 0.4 percent and shall not exceed the following:

Classification	Gradient
Arterial and collector streets	5 percent
Local streets and marginal access streets	8 percent

F. Vertical Curves: Different connecting street gradients shall be connected with vertical curves. Minimum length, in feet, of these curves shall be twenty (20) times the algebraic difference in the percent of grade of the two (2) adjacent slopes.

G. Intersections:

1. Angle Of Intersection: The angle formed by intersecting streets shall not be less than seventy five degrees (75°), with ninety degree (90°) intersections preferred.

2. Size Of Intersection: Intersections of more than four (4) corners shall be prohibited.

3. Corner Radii: Roadways of street intersections shall be rounded by a radius of not less than fifteen feet (15'). Corners at entrances to the turnaround portions of cul-de-sacs shall be rounded by a radius of not less than fifteen feet (15').

H. Curb And Gutter: Concrete curb and gutter shall be included as part of the required street surface improvement and shall be designed for installation along both sides of all roadways.

I. Traffic Flow: All road improvements to any roads which are reasonably necessary to offset the impacts of the additional traffic expected to be generated by the proposed subdivision and accompanying development shall be designed in a manner which, in the opinion of the city engineer, will best restore traffic flow and efficiency on city roads to the status which existed prior to the development of the proposed plat. (Amended Ord. 1988-8, 9-8-1988)

J. Construction Standards: Streets shall be constructed according to standards established by the city in the "City's Standard Detail Plates" or as otherwise specified by the city engineer. (2005 Code)

11-7-7: STREET NAMES:

Names of new streets shall not duplicate existing or platted street names, unless a new street is a continuation of or in alignment with the existing or platted street. In that event, it shall bear the same name of the existing or platted street. Street names shall conform to the city's street naming and property numbering system as applicable. (Amended Ord. 1988-8, 9-8-1988)

11-7-8: PARKS AND TRAILS:

11-7-8-1: DESIGN STANDARDS:

A. Park Design:

1. Land for parks shall be acquired, planned and developed according to the park classification guidelines contained in the comprehensive park and trail system plan which specifies the appropriate sizes, locations, service areas, and equipment types to best serve the city.

2. Park accessibility shall be maximized to serve city residents by requiring either vehicular or pedestrian access or both, depending upon the size and classification of the park.

B. Trail Design:

1. Trail Types: Trails constructed in the city shall be one of the following:

a. On Street Trails/Paved Shoulders: On street trails/paved shoulders share the same paved surface as the roadway that they follow. They are designed for multiple uses and may be located on one or both sides of the street.

b. Grade Separated Trails: Grade separated trails are asphalt trail segments that are intended to be separated from the adjacent roadway by

a strip of land/plantings or physical structure (preferably not less than 8 feet wide). Asphalt trails may be constructed along side yards but should not be located in the front yard of single-family residential homes. Grade separated trails are designed for the integration of a variety of compatible nonmotorized trail uses including pedestrians, bicycles, skateboards, rollerskates or in-line skates. They shall generally follow street rights of way, but may be set back varying distances from a road for aesthetic, safety, maintenance, or snow storage reasons depending upon the classification of the roadway with which they are associated (traffic volumes, speed, etc.).

c. Sidewalks: Concrete sidewalks shall be required for all projects where a means of pedestrian access is deemed necessary by the city council from the development to schools, parks, churches, business or industrial developments, adjacent neighborhoods, transportation facilities, or for unusually long blocks, in order to meet the purpose and objectives of the park and trail comprehensive plan. Sidewalks will normally consist of five foot (5') wide concrete sections to be located within a public road right of way at least one foot (1') inside of the right of way line. A border area consisting of a minimum three foot (3') wide strip of grass located between the street edge of the sidewalk and curb face shall be provided. The city council may approve sidewalks of lesser or greater width (4 to 8 feet), and with or without the grass planting strip, for locations where the city council determines that existing development, topography, trees, high traffic volume and/or pedestrian safety is a concern.

d. Overland Trails/Linear Parks: Overland trails/linear parks are trail segments that shall provide a standard trail width within a park or natural area that is dedicated as public or private open space. These trails are intended to be located within significantly wider rights of way or natural corridors, away from streets, and will not typically be installed parallel to the street surface. They should be designed to incorporate vegetation, seating, picnic areas, and playgrounds or other supporting site elements and may serve a dual purpose as a buffer strip or separated bikeway. Abandoned railroad rights of way and many utility easements fall into this category.

2. Trail Widths:

a. The following paved trail widths shall be required (exclusive of dedicated corridor or easement area within which the paved trail is located):

Street	**Arterial 10 foot trail on 1 or both sides of street as required**	**Major Collector 10 foot trail on 1 or both sides of street as required**	**Minor Collector 8 foot trail on 1 side or 6 foot trail on both sides of street**	**Local 8 foot trail on 1 side of street or as required**
Street	**Arterial 10 foot trail on 1 or both sides of street as required**	**Major Collector 10 foot trail on 1 or both sides of street as required**	**Minor Collector 8 foot trail on 1 side or 6 foot trail on both sides of street**	**Local 8 foot trail on 1 side of street or as required**
CSAH 19	X			
CSAH 37		X		
CSAH 35 (west of Main)		X		
County Highway 118		X		
Main Avenue		X		
CSAH 35 (east of Main)			X	
53rd/57th Streets			X	
Kalland Avenue			X	
Barthel Drive			X	
70th Street			X	
All other streets				X

b. Lesser widths may be necessary in established residential areas and where space is limited. In no case shall a trail/sidewalk be installed at less than a four foot (4') width.

c. Sidewalk design and width standards shall be in accordance with the sidewalk policy established by resolution of the city council.

3. Residential Areas: In residential areas (local streets only), on street trails may be paved with a stripe or identified by a sign. On street trails associated with collector or arterial streets are not desired for long term use. However, where necessary, they should always have a specially marked shoulder area and/or be sign identified.

4. Construction Requirements: Trails shall be constructed according to the standards established in the "City's Standard Detail Plates" or as otherwise specified by the city engineer.

5. Longitudinal Slope: The longitudinal slope of trails along their length should not exceed five percent (5%) to be considered handicapped accessible and eight percent (8%) to ten percent (10%) in areas where access would otherwise be limited.

6. Cross Sectional Slope: The cross sectional slope of trails shall not exceed two percent (2%) and shall be convex (raised to slope toward each side) or sloped in one direction to allow for proper drainage.

7. Forward And Rear Views: Unobstructed forward and rear views should be provided for each type of user: Fifty feet (50') for pedestrians and one hundred fifty feet (150') for bicyclists and skaters.

8. Surface Requirements: All trails shall be paved with bituminous surfacing, and all sidewalks shall be concrete, unless otherwise approved by the city council. In special situations, trail surfaces of vegetative ground cover, gravel, stone or wood chips may be used as interim surfaces or within natural areas. (Amended Ord. 1988-8, 9-8-1988)

11-7-8-2: DEDICATION REQUIREMENTS:

A. General Requirements:

1. Applicants for the subdivision of land and developers of land within the city shall be required to dedicate to the city for park, playground, and public open space purposes the following minimum amounts of land or cash, or both, whichever the city, at its option, shall require. The required dedication shall be made prior to the city's release of the final plat for filing. The amount of any required cash contribution shall be calculated based upon rates established by the city and in effect as of the date of the release of the final plat for filing. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

2. Land to be dedicated for public use shall be reasonably suitable for its intended use as determined by the city and shall be at a location convenient to the public to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, vegetation, access and location.

3. The applicant shall consult with the planning commission, at the time the preliminary plat is under consideration, to secure their recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds or other public property. The preliminary plat shall show the location, area, and dimensions of all areas to be dedicated in this manner. Such contribution requirement recommendation(s) will be sent to the city council for their approval. (Amended Ord. 1988-8, 9-8-1988)

4. When a proposed park, trail or sidewalk located outside of a street right of way, playground, recreational area, or other public ground has been indicated in the city's official map, comprehensive land use plan or comprehensive park and trail plan and is located in whole or in part within a proposed plat, it shall be dedicated to the city. If the applicant elects not to dedicate an area in excess of the land required hereunder for a proposed public site that the city feels is in the public interest to acquire, the city may consider acquiring the excess land through purchase or condemnation. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

5. Land area conveyed or dedicated to the city shall not be used in calculating density requirements of the city zoning ordinance and shall be in addition to and not in lieu of open space requirements for planned unit developments.

6. Where private open space for park, trail, playground, open space or other recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas may be used for credit at the discretion of the city council against the requirement of dedication for purposes described in this title, provided the city council finds it is in the public interest to do so and that the following standards are met:

a. That yards, court areas, setbacks and other open space required to be maintained by the zoning and building regulations shall not be included in the computation of such private open space; and

b. That the private ownership and maintenance of the open space is adequately provided for by written agreement; and

c. That the private open space is restricted for park, playground, trail, open space or recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the city council; and

d. That the proposed private open space is reasonably adaptable for use for such purposes, taking into consideration such factors as size, shape, topography, vegetation, geology, access and location of the private open space land; and

e. That facilities proposed for such purposes are in substantial accordance with the provisions of the recreational element of the comprehensive plan or comprehensive park and trail plan, and are approved by the city council; and

f. That where such credit is granted, the amount of credit shall not exceed twenty five percent (25%) of the amount of dedication as calculated herein.

7. The city, upon consideration of the particular type of development, may require larger or lesser parcels of land to be dedicated if the city determines that present or future residents would require greater or lesser land for park and playground purposes. In addition, the city council may also require lots within the subdivision be held in escrow for future sale or development. The monies derived from the sale of escrowed lots will be used to develop facilities or to purchase park land in the future.

8. If an applicant is unable to make a commitment to the city as to the type of building that will be constructed on lots in the proposed plat, then the land and cash contribution requirement will be a reasonable amount as determined by the city council.

9. Wetlands, ponding areas and drainageways accepted by the city may not be considered in the park land and/or cash contribution to the city.

B. Residential Dedications:

1. Land Dedication: Land shall be dedicated pursuant to the following schedule wherein density is calculated by considering the total gross acreage of the entire plat, subdivision or development being considered:

Dwelling Units Per Gross Acre	**Dedication Requirement**
Less than 9	10 percent of subdivision area
9 and more	11 percent of subdivision area, plus an additional $^1/_2$ percent for each additional dwelling unit per acre over 9

(Amended Ord. 1988-8, 9-8-1988)

2. Cash Contribution In Lieu Of Land Dedication: A cash contribution in lieu of land dedication may be required pursuant to section 8-1-3 of this code. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

3. Combination Land And Cash Dedication: The city may require the applicant or developer to make a combination cash and land dedication pursuant to the following formula: (Amended Ord. 1988-8, 9-8-1988)

a. The amount of land which could be required in accordance with this section shall be calculated.

b. From the total calculated in subsection B3a of this section, the actual amount of land the city determines to be needed to fulfill the purposes of this section shall be subtracted.

c. The balance arrived at in subsection B3b of this section shall be converted into a cash contribution in lieu of land dedicated pursuant to subsection B2 of this section. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

C. Commercial, Industrial And Public/Institutional Dedications:

1. Land Dedication: Land dedication, if required, shall be ten percent (10%) of a commercial or public/institutional (except schools and public recreational facilities) subdivision or development and five percent (5%) of an industrial subdivision or development. (Amended Ord. 1988-8, 9-8-1988)

2. Cash Contribution In Lieu Of Land Dedication: A cash contribution in lieu of land dedication may be required pursuant to section 8-1-3 of this code. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

3. Combination Land And Cash Dedication: Where a combination land and cash dedication is made, the lands dedicated will be deducted from the total park dedication land requirement and the balance of acreage will be multiplied by the current per acre dedication rate.

4. Existing Lots Of Record: In cases where existing lots of record (platted or unplatted) are being developed, such properties shall be subject to park dedication requirements if:

a. The development involves the subdivision, replatting or combination of property under the terms of this title; and

b. Park dedication requirements have not been previously satisfied and the property or lots must have been originally subdivided after September 8, 1988. It shall be the property owner's responsibility to show proof of past park dedication payment. (Amended Ord. 1988-8, 9-8-1988)

D. Combination Cash, Land And Development Of Land For Park Use: The city may elect to receive a combination of cash, land and development of the land for park use. In this case, the city may reduce the amount of land to be dedicated or the cash contribution in lieu of land dedication by an amount equivalent to the cost of the facilities provided.

E. Planned Unit Development: Planned unit developments with mixed land uses shall make cash and/or land contributions in accordance with this section based upon the percentage of land devoted to the various uses.

F. Unplatted Lands: In the event the city waives the requirement that an applicant or developer proposing to subdivide land plat the same, the city council may require the applicant or developer, as a condition of granting such waiver, to dedicate parks (or pay cash in lieu thereof), trails, and open space in a manner consistent with the provisions of this section.

G. Divided Land With Same Number Of Lots; Increase In Lot Number: Property being divided with the same number of lots shall be exempt from all park land dedication requirements. If the number of lots is increased or if land outside the previously recorded plat is added, then the park land dedication and/or park cash contributions shall be based on the additional lots and on the additional land being added to the plat. If the additional land does not create additional lots, then each one-third ($^1/_3$) acre added shall be considered a new lot for purposes of calculating the dedication requirements.

H. Additional Dedication Requirements:

1. Generally: The following requirements apply to all dedications or conveyances for park, playground, trail or public open space purposes:

a. Land conveyed or dedicated pursuant to the provisions of this section must be located outside of drainageways, wetlands, floodplains and ponding areas after the site has been developed.

b. As part of their development contract or site plan approval responsibilities, applicants and developers shall be responsible for making certain improvements to the developments for park, playground, trail/sidewalk and public open space purposes including, but not limited to, finished grading and ground cover for all park, playground, trail and public open spaces within their developments.

c. Dedication credit shall not be granted for the construction of recreational facilities unless a specific agreement granting credit is approved by the city council. This paragraph does not affect the requirements of subsection H1b of this section.

d. The development agreement for subdivisions within which parks, trails, or open spaces are to be located shall include language requiring the disclosure of such elements to the public/prospective lot owners.

2. Trail Dedications:

a. Unless otherwise required by the city council, the developer shall be required to dedicate trails and/or construct sidewalks consistent with the comprehensive park and trail system plan which shall be used as the guide for the installation of trails/sidewalks in the city. The plan shows the desired locations and types of trails and sidewalks which shall be followed as a general rule. Final determination as to trail/sidewalk locations, types, and sizes shall be determined at the time of preliminary plat approval.

b. The developer shall be required to construct all trails/sidewalks within subdivisions. The cost for installation of trails located outside of a public street right of way shall be counted as credit toward park dedication requirements, calculated at one hundred five percent (105%) of the construction bid price. Trails and sidewalks constructed within road rights of way shall not be credited as park dedication. All trails/sidewalks shall be constructed to city specifications "City's Standard Detail Plates", as may be amended by the city council and shall be completed prior to or at such time as the wear course of asphalt is installed on the streets.

c. Where trails and/or sidewalks are to be located outside of public street rights of way, the developer shall be required to dedicate a minimum thirty foot (30') corridor for the establishment of said trails. The location of trails within corridors or easements shall be determined at the time of preliminary plat approval.

d. In special cases where trails are predominantly located within public rights of way but extend outside such areas to improve functioning or to avoid obstacles, trail easements may be accepted. In these cases, lot depths must be increased to accommodate the width of the easement.

e. Commercial, industrial and public/institutional subdivisions shall be required to establish easements for trails/sidewalks required, and such action will not necessitate a change in the required lot size or setback requirements.

f. In cases where existing lots of record (platted or unplatted) are being developed as commercial, industrial or public/institutional uses (including schools and public recreational facilities), such properties shall be subject to trail dedication requirements if:

(1) The development involves the subdivision, replatting or combination of property under the terms of this title; and

(2) Trail dedication requirements have not been previously satisfied, and the property or lots must have been originally subdivided after September 8, 1988. It shall be the property owner's responsibility to show proof of past trail dedication or payment.

I. Suitable Condition: Areas to be dedicated for public park, trail, or open space shall be brought to a suitable condition by the subdivider prior to acceptance by the city. This shall include the following: all dead trees, trash, junk, unwanted structures or similar undesirable elements shall be removed by the owner at his expense; on grades or exposed areas which are not sodded, lawn grass seed shall be sown at not less than four (4) pounds to each one thousand (1,000) square feet of land area; seeding and germination testing shall take place on a schedule set forth by the City at the time of the conveyance; seeding shall consist of a maximum of ten percent (10%) rye grass by weight and a minimum of ninety percent (90%) of permanent bluegrass and/or fescue grass by weight. The applicant shall submit an agreement in writing signed by the developer that respreading of soil and seeding of lawn will be done during the immediately following planting season as set forth in this chapter and provide a performance bond to guarantee said seeding. Said condition shall also be in accordance with the City's resolution on condition of acceptance of public parks and trails in Albertville.

J. Title And Survey Requirements:

1. Lands dedicated for public park, trail or open space shall be accompanied by a certificate of survey or shall be designated as a park, trail or public open space area on the plat as determined by the City. Lands dedicated for public parks shall be dedicated as a legal lot of record and not as an outlot. Ponding areas not located within public park or open space areas to be dedicated to the City under the terms of this section shall be dedicated to the City as an outlot rather than easement, unless otherwise approved by the City Council.

2. Further, such lands shall be free and clear of all liens and encumbrances including special assessments as evidenced by an up to date abstract of title or registered property abstract to be submitted, at the applicant's cost, to the City for its examination.

3. Such dedication shall be in the form and manner as prescribed by the City.

K. Time Limit For Cash Payments: A cash contribution required by the City shall be made at the time of final plat approval by the City Council or as specified by the applicable development contract.

L. Funding; Accounting: The City Council shall establish a separate fund into which all cash contributions received from owners and developers in lieu of conveyance or dedication of land for park, playground, trail and open space purposes shall be deposited. The City Council shall establish separate budgeting and accounting procedures for such fund and shall make, from time to time, appropriations for such purposes, for developing existing parks, or the development of new park facilities. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

11-7-9: WATER AND SEWER SYSTEMS:

A. Water Supply: Extensions of the public water supply system, when available, shall be designed so as to provide public water service to each lot.

B. Sewage Disposal: Extension of the public sanitary sewer system, when available, shall be designed so as to provide public sewer service to each lot. (Amended Ord. 1988-8, 9-8-1988)

11-7-10: DRAINAGE SYSTEM:

A. Complete Design Required: A complete and adequate drainage system design shall be required for the subdivision and may include a storm sewer system or system of open ditches, culverts, pipes, catch basins and ponding areas, or a combination thereof.

B. Design: Drainage system utilities shall be designed in accordance with standards established by the City in the "City's standard detail plates", the requirements of the Small Municipal Separate Storm Sewer Systems (MS4) General Permit (MNR040000), or as otherwise specified by the City Engineer.

1. A plan shall be developed that requires the use of any combination of Best Management Practices, with highest preference given to green infrastructure techniques and practices (e.g., infiltration, evapotranspiration, reuse/harvesting, conservation design, urban forestry, green roofs, etc.), necessary to meet the conditions on the site of a construction activity to the maximum extent practicable.

C. Rate Control: The applicant shall install or construct or pay the City fees for all stormwater management facilities necessary to manage increased runoff, so that the 2-year, 10-year, and 100-year storm peak discharge rates existing before the proposed development shall not be increased. Precipitation depths using NOAA Atlas 14 volume 8 precipitation frequency estimates, published June 2013, or its successor, shall be used for each project location. Also, accelerated channel erosion shall not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or a monetary contribution to the development and maintenance of community stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

1. All property within the County ditch no. 9 watershed shall not drain or discharge more than one-half (1/2) of the predevelopment rate of runoff.

D. Volume Control: The owner of a construction activity must treat the water quality volume on any project where the sum of the new impervious surface and fully reconstructed impervious surface equals one or more acres. The design shall explicitly address the use of BMPs to limit the loss of pervious area, and limit runoff volume increases from impervious areas to the extent feasible considering site specific conditions. At a minimum, volume control practices shall comply with the following:

1. The infiltration/filtration practice shall be capable of draining down within forty eight (48) hours or less.

2. When using infiltration for volume control, infiltration volumes and facility sizes shall be calculated using the appropriate hydrological soil group. Site specific infiltration or hydraulic conductivity measurements completed by a licensed soil scientist or geotechnical engineer shall be used, or the design criteria in the Minnesota Stormwater Manual shall be followed.

3. The bottom area of treatment ponds shall not be accepted as part of an infiltration practice; however, properly designed slopes and safety shelves may be accepted.

4. Before infiltrating runoff, pretreatment shall be required for gravel and paved surface lot runoff that will enter the infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging and to protect ground water quality. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips. To minimize potential groundwater impacts it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollution source areas such as parking lots.

5. Infiltration systems shall be designed to bypass higher flows without incurring damage from erosion or loss of top soils.

6. Infiltration areas shall be fenced or otherwise protected from compaction and/or disturbance before and during all land disturbing activities.

7. Constructed infiltration practices, such as infiltration ponds and trenches are discouraged in favor of other appropriate volume control practices. Constructed infiltration practices are prohibited in the areas identified in the Post-Construction Stormwater Management section of the MS4 General Permit (MNR040000):

8. Infiltration facilities to be maintained by the City shall be located in outlots dedicated to the City.

9. For linear projects that lack right-of-way for the installation of volume control practices, a reasonable attempt must be made to obtain right-of-way during the planning process. Exceptions may be made for lesser volume on site if any limitations are encountered as allowed per the MS4 General Permit (MNR040000).

10. If the owner and/or operator of a construction activity believes that the water quality volume cannot be met on the site of the original construction activity, the owner and/or operator must provide appropriate documentation to the City as support. The stormwater requirements for the water quality volume not met on the site of the original construction activity may be mitigated off-site at the City's discretion. If off-site mitigation is allowed, the mitigation provisions of the MS4 General Permit (MNR040000) must be followed.

E. Information Submitted: All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the stormwater pollution prevention plan. A delineation of all ponds, infiltration facilities, ditches, public waters and wetlands located on and adjacent to the site, including the normal water level (NWL), the 100-year high water level (HWL), and the ordinary high water level (OHW).

F. Incorporation Of Natural Topography: The applicant shall consider reducing the need for stormwater management facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

G. Minimum Design Standards For Stormwater Wet Detention Facilities: The stormwater wet detention facilities shall conform to the most current

technology as reflected in the current version of the Minnesota Stormwater Manual, and the current requirements found in the MPCA's Construction Stormwater Permit (MNR100001).

H. Protection For Natural Wetlands: Wetlands must not be drained or filled, wholly or partially, unless replaced by either restoring or creating wetland areas of at least equal public value pursuant to the Wetland Conservation Act.

I. Models/Methodologies/Computations: Hydrologic models and design methodologies used for determining runoff characteristics and analyzing stormwater management structures shall be approved by the City Engineer. Plans, specifications and computations for stormwater management facilities submitted for review shall be signed by a registered professional engineer.

J. Access Routes To Ponding Areas: Show or define access routes for maintenance purposes to all ponding areas (must be maximum of eight percent (8%) grade, two percent (2%) cross slope and ten feet (10') wide). Paving or pavers on the access routes is required with a design load to able support maintenance vehicles.

K. Emergency Overflow: An emergency overflow, sufficient to convey the incoming flow from a 100-year storm event, shall be included with the design and construction of all ponding facilities.

L. Long-Term Maintenance Of Structural Stormwater BMPs: All stormwater management structures and facilities shall be maintained in perpetuity to assure the structures and facilities function as originally designed. The responsibility for maintenance shall be assumed by either the City with jurisdiction over the structures and facilities, or by the applicant entering into a maintenance agreement with the City.

1. Maintenance Of Private Structural Stormwater BMPs: Any structural stormwater BMP that the City determines to be private shall meet the following requirements:

a. A permanent public easement shall be provided to the City for access for inspection and/or maintenance purposes. Costs incurred by the City for any maintenance of private systems will be billed and/or assessed to the owner/operator;

b. Recorded inspection and maintenance agreements that define inspection and maintenance responsibilities are required. A minimum annual inspection for private systems shall be required. These requirements are transferrable to any party that becomes the owner/operator of the site; and,

c. If site configurations or structural stormwater BMPs change, causing decreased BMP effectiveness, new or improved structural stormwater BMPs must be implemented to meet the requirements of this section. (Ord. 2018-02, 1-16-2018; amd. Ord. 2023-03, 3-20-2023)

11-7-11: EASEMENTS:

A. Drainage And Utility Easements:

1. Easements for drainage and utilities of at least ten feet (10') wide shall be provided on all lot lines. In the case of side or rear lot lines, these may be centered on the lot line.

2. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing. (Amended Ord. 1988-8, 9-8-1988)

3. Drainage and utility easements shall be provided along each side of the centerline of any watercourse or drainage channel, whether or not shown on the Comprehensive Plan, to a sufficient width to provide proper maintenance and protection, to provide for stormwater runoff and to provide for installation and maintenance of storm sewers. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

B. Lake Access Easements: The platting or granting of private easements across private property or property lines for the purpose of providing private lakeshore access is prohibited.

C. Dedication Of Easements: All easements shall be dedicated for the required use and shall be shown on the final plat. (Amended Ord. 1988-8, 9-8-1988)

11-7-12: EROSION AND SEDIMENT CONTROL:

A. Stormwater Pollution Prevention Plan (SWPPP): A SWPPP shall be submitted for review and approval by the City Engineer for projects disturbing one acre or more of land. The plan should be prepared by a qualified individual, conform to the MPCA's current Construction Stormwater Permit (MNR100001), and incorporate the appropriate Best Management Practices (BMPs) described in the "Minnesota Stormwater Manual". The SWPPP shall include:

1. Project Description: Project description including the nature and purpose of the land disturbing activity and the amount of grading, utilities, and building construction involved.

2. Project Phasing Plan: Project phasing plan including the time frames and schedules for the project's various aspects.

3. Map: A map of the existing site conditions: existing topography, property information, steep slopes, existing drainage systems/patterns, type of soils, waterways, wetlands, vegetative cover, and 100-year floodplains.

4. Site Construction Plan: A site construction plan that includes the proposed land disturbing activities, soil stockpiles, erosion and sediment control plan, construction schedule, and the maintenance and inspection of the stormwater pollution prevention measures.

5. Adjacent Areas: Adjacent areas, neighboring streams, lakes, residential areas, roads, etc., within one hundred feet (100') of the subject site, which may be affected by the land disturbing activity.

6. Methods Of Control: The methods that will be used to control erosion and sedimentation on the site, both during and after construction, including the following items:

a. Schedule and methods to stabilize all exposed soils, soil stockpiles and steep slopes.

b. Schedule and methods to establish permanent vegetation.

c. Methods to prevent sedimentation damage to adjacent properties and natural features.

d. Measures to control the quality and quantity of stormwater leaving the site.

e. Methods to protect storm sewers from the entrance of sediment.

f. Methods to protect paved roads from sediment and mud brought in from access routes.

g. Methods to maintain both temporary and permanent erosion and sediment control devices.

h. Methods to restabilize utility construction areas as soon as possible.

i. Calculations and design parameters for sediment basins, wet detention basins, diversions, waterways, and other applicable practices.

7. Waste And Material Collection And Disposal: All waste and unused building materials (including garbage, debris, cleaning wastes, litter, wastewater or sewage, toxic materials or hazardous materials) shall be properly contained while on site, properly disposed of off-site, and not allowed to be carried by water and/or wind off the site or into a receiving channel or storm sewer system. Waste containers and all construction materials shall not be placed or stored such that they obstruct, encroach upon, or interfere wholly or in part with any public right-of-way, including but not limited to, public roadways, trails, sidewalks, parks or other public properties.

B. Minimum SWPPP Requirements: The Construction Stormwater Permit (MNR100001) SWPPP requirements shall be followed along with the following minimum control measures where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the City Engineer.

1. A structure with a three foot (3') sump for collecting coarse grained material shall be provided with new storm sewer systems. The sump catch basin or manhole shall be located within the street and just prior to discharge into a water body. Such basins shall be cleaned when they are half filled with material.

2. All stormwater pollution control management facilities shall be designed to minimize the need of maintenance, to provide easy access for maintenance purposes and be structurally sound. These facilities shall have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in stormwater runoff. The City or its designated representative shall inspect all stormwater management facilities as part of the normal maintenance program for public works facilities. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purpose.

3. If a stormwater management plan involves directing some or all runoff from the site, the applicant shall obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

4. Stormwater pollution controls shall be installed on all down gradient perimeters before commencing the land disturbing activity, and shall not be removed without City approval. Upon City acceptance of turf establishment and other such permanent erosion control measures, the owner shall remove all silt fence and other temporary erosion control measures.

5. Slopes greater than four to one (4:1) shall have erosion control blanket installed immediately after finished grading. (Ord. 2018-03, 1-16-2018; amd. Ord. 2023-03, 3-20-2023)

11-7-13: PROTECTED AREAS:

A. Where land proposed for subdivision is deemed environmentally sensitive by the City due to the existence of wetlands, drainageways, watercourses, floodable areas or steep slopes or wooded areas, the design of said subdivision shall clearly reflect all necessary measures of protection to ensure against adverse environmental impact.

B. Based upon the necessity to control and maintain certain sensitive areas, the City shall determine whether said protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of outlots.

C. In general, measures of protection shall include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Such measures, when deemed appropriate by the City, may include, but shall not be limited to, the following:

1. The establishment of easements and/or outlots over wetlands, drainageways, and watercourses.

2. The implementation of flood control measures.

3. The enlargement of lots or redesign of the subdivision.

4. The submission of a tree preservation plan subject to the review of the Planning Commission and approval of the City Council.

5. The utilization of appropriate erosion control measures subject to approval by the City Engineer.

6. Soil testing to determine the ability of the proposed subdivision to support development.

7. The limitation of development on natural or manmade slopes over eighteen percent (18%).

8. Structure conformance to the natural limitations presented by the topography and soil so as to create the least potential of soil erosion. (Amended Ord. 1988-8, 9-8-1988)

CHAPTER 8

CONSTRUCTION STANDARDS

SECTION:

11-8-1: Streets

11-8-2: Street Signs

11-8-3: Street Lighting

11-8-4: Tree Planting

11-8-5: Water And Sewer Systems

11-8-6: Drainage

11-8-7: Utilities Location

11-8-8: Inspections

11-8-1: STREETS:

A. Grading: Streets shall be graded in accordance with a plan approved by the city engineer. The grading shall include the entire width of the right of way and shall provide a boulevard section, in addition to the minimum pavement width. (Amended Ord. 1988-8, 9-8-1988)

B. Pavement: The design of street pavement for all streets covered by this section shall be in accordance with the state department of transportation road design manual for flexible pavements and/or the "City's Standard Detail Plates" or as otherwise specified by the city engineer. The design thickness of the surfacing elements shall be in accordance with the flexible pavement design standard for road classifications as follows: (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

Classification	Pavement Design; Axle Load
Arterial, collector streets and commercial or industrial service streets	As determined by traffic needs
Local streets	7 tons minimum

C. Soil Tests: To determine subgrade soil classifications, soil samples shall be collected and analyzed by a reputable testing laboratory. Reports of the soil analysis shall be submitted to the city engineer with the pavement plans. Soil samples shall be taken along the centerline of the proposed road at intervals not exceeding three hundred feet (300').

D. Curb And Gutter: Concrete curb and gutter, in accordance with the following provisions, shall be constructed on both sides of all streets:

1. In residential zoning districts, surmountable concrete curb and gutter of a city approved type and design shall be used.

2. In commercial or industrial zoning districts, concrete curb and gutter cross sections shall be either MnDOT design no. B61B or MnDOT design no. S518.

E. Boulevards: All boulevards shall have four inches (4") of topsoil (black dirt) placed on them and then shall be seeded or sodded. (Amended Ord. 1988-8, 9-8-1988)

11-8-2: STREET SIGNS:
All street signs shall be provided and installed by the city, at the expense of the applicant. (Amended Ord. 1988-8, 9-8-1988)

11-8-3: STREET LIGHTING:
The minimum requirement for street lighting facilities shall be one 2,500-lumen light, or equal, at each street intersection within or abutting the subdivision. Light standards shall be approved by the city. (Amended Ord. 1988-8, 9-8-1988)

11-8-4: TREE PLANTING:
Developers of all residential, commercial and industrial property in the city shall be required to plant one shade tree or evergreen tree per lot or unit as defined in section 1000.7 of the zoning ordinance (see appendix A of this code). This planting shall be in addition to other landscaping, screening or buffering requirements. (Amended Ord. 1988-8, 9-8-1988)

11-8-5: WATER AND SEWER SYSTEMS:
A. Public Systems:

1. Utility Design: All utilities shall be constructed in accordance with standards established by the city in the "city's standard detail plates" or as otherwise specified by the city engineer. (2005 Code)

2. Water Main: A minimum water main of six inch (6") ductile iron pipe or other approved pipe shall be required. Mains over six inches (6") in size may be required, and the additional cost shall be allocated pursuant to established city council policies.

3. Sanitary Sewer: Unless otherwise required, a sanitary sewer of eight inch (8") pipe shall be installed as the minimum size, placed at grades approved by the city engineer. Mains over eight inches (8") in size may be required, and the additional cost shall be allocated pursuant to established city council policies. Service wyes shall be four inches (4").

4. House Services [1] : Each house service shall be run from the main to the property line, where a cap or plug shall be placed until the service is extended to the structure. A one inch (1") type K copper water service, or approved equal; corporation cock, curb box and stop; and four inch (4") extra heavy cast iron soil pipe, or approved equal, sewer service shall be the minimum requirements, and they may be placed in a common trench.

5. As Built Plans: Reproducible as built drawings showing all utilities and improvements shall be furnished to the city by the applicant of all required improvements. Such as built drawings shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.

B. Installation And Connection To Public System: Water and sewer lines shall be installed and connected to the public system to serve all lots within the proposed subdivision under the provisions of applicable statutes and ordinances. The city council shall require the installation of water and sewer mains, at the applicant's expense or under the provisions of applicable statutes and ordinances, unless said applicant can prove to the city council that extension of the existing water system is not economically feasible in the development of the subdivision and that adequate water facilities will be otherwise provided, in which case, the council may permit the installation of individual wells.

C. Water Wells: An individual well, if permitted by the city council, shall be constructed in accordance with the Minnesota state well code[2] . (Amended Ord. 1988-8, 9-8-1988)

Notes

1 1. See also subsection 9-3-7D of this code.

2 1. MSA § 103I.001 et seq.

11-8-6: DRAINAGE:
A. All surface and underground drainage systems shall be installed to adequately remove all natural drainage that accumulates on the developed property. All such systems shall provide a permanent solution for the removal of drainage water.

B. Drainage systems and facilities shall be constructed in accordance with standards established by the city in the "city's standard detail plates" or as otherwise specified by the city engineer. (Ord. 2009-007, 3-2-2009)

11-8-7: UTILITIES LOCATION:
When feasible, all utilities shall be placed underground. All underground work shall be completed prior to street surfacing. All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles. (Amended Ord. 1988-8, 9-8-1988)

11-8-8: INSPECTIONS:
All required improvements shall be inspected by the city engineer or city approved consultant during construction, at the expense of the applicant. (Amended Ord. 1988-8, 9-8-1988)

CHAPTER 9

IMPROVEMENT REQUIREMENTS

SECTION:

11-9-1: Improvements Required

11-9-2: Construction Plans And Inspection

11-9-3: Responsibility For Installation Costs

11-9-4: Agreement For Installation

11-9-5: Financial Guarantee

11-9-6: Completion Of Improvements Prior To Final Plat Approval

11-9-7: Trunk Facilities

11-9-8: Alternate Installation

11-9-1: IMPROVEMENTS REQUIRED:
Prior to the approval of a plat by the governing body, the applicant shall have agreed, in the manner set forth in this chapter, to install the following improvements on the site at the applicant's expense, in conformity with approved construction plans and in conformity with all applicable standards and ordinances:

A. Survey Monuments: All subdivision boundary corners, block and lot corners, road intersection corners and points of tangency and curvature shall be marked with survey monuments meeting the minimum requirements of state law. All U.S., state, county and other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position, unless a relocation is approved by the controlling agency. All lot corner pipes or iron rods shall be a minimum of one-half inch ($^1/_2$") in diameter, eighteen inches (18") in length, and shall be inscribed with the registration number of the land surveyor making the survey as prescribed in Minnesota statutes chapter 505.

B. Grading: The full width of the right of way of each street dedicated in the plat shall be graded as outlined in subsection 11-8-1A of this title.

C. Pavement: All streets and alleys shall be improved with concrete or bituminous surface, except as may be approved by action of the governing body. Pavement standards are outlined in subsection 11-8-1B of this title.

D. Curb And Gutter: There shall be concrete curb and gutter installed along both sides of all streets and alleys to the standards listed in subsection 11-8-1D of this title.

E. Water Mains: In the case where water mains from a public water system are available, the applicant shall be required to install water mains in the plat and connect the same to the public water system. The water house service (ended with curb box) shall be installed into the lot a distance of eight feet (8'), measured at a right angle, from the right of way line of the abutting public street.

F. Public Sanitary Sewer: In all cases where trunk line sanitary sewer facilities are available, the applicant shall be required to install sanitary sewers in the plat and connect the same to the trunk line sewers. The sanitary sewer house service (ended with plug) shall be installed into the plat a distance of eight feet (8'), measured at a right angle, from the right of way line of the abutting public street. (Amended Ord. 1988-8, 9-8-1988)

G. Drainage Facilities And Systems: Such facilities and systems shall be installed as to adequately provide for the drainage of surface waters, stormwater pollution control, and flood protection. Drainageway and/or ponding easements or land dedications may be required when such easements or land is needed, in the public interest, for purposes of floodplain management, proper drainage, prevention of erosion, pedestrian access to water bodies, or other public purpose. (Ord. 2009-007, 3-2-2009)

H. Miscellaneous Facilities: Tree planting, street name signs, traffic control signs, oversized trunk lines, pedestrianways and other improvements may be required to be furnished and installed by the applicant. The applicant shall install four inches (4") of black dirt and a good quality sod in the boulevard at the time of occupancy of the adjacent lot. During the construction phase, if the utility lines (electric power, telephone, gas, and cable TV) are placed prior to placing the curb, the applicant shall place four inches (4") of black dirt and adequate seed in the boulevard within thirty (30) days after curb placement. If the curb is placed prior to placing the utility lines, the applicant shall place four inches (4") of black dirt and adequate grass seed in the boulevard within thirty (30) days after the utility lines are placed, or within one year after the curb is placed, whichever occurs sooner. Placing of black dirt and grass seed in the boulevard shall not relieve the applicant from placing black dirt and sod in the boulevard at the time of occupancy of the adjacent lot.

I. Sidewalks: Concrete sidewalks or bituminous trails shall be installed in the approximate locations shown on the city comprehensive trail plan. Exact locations of the sidewalks or trails shall be shown on the preliminary plat and shall be subject to review by the city engineer. (Amended Ord. 1988-8, 9-8-1988)

11-9-2: CONSTRUCTION PLANS AND INSPECTION:
A. Construction plans for the required improvements conforming in all respects with the standards and ordinances of the city shall be prepared, at the applicant's expense, by a professional engineer who is registered in the state of Minnesota, and said plans shall contain his certificate. Such plans, together with the quantities of construction items, shall be submitted to the city engineer for his approval and for his estimate of the total costs of the required improvements. Upon approval, such plans shall become a part of the required contract. The tracings of the plans approved by the engineer, plus two (2) prints, shall be furnished to the city to be filed as a public record.

B. All required improvements on the site that are to be installed under the provisions of this chapter shall be inspected during the course of construction by the city engineer at the applicant's expense, and acceptance by the city shall be subject to the city engineer's certificate of compliance with the contract. (Amended Ord. 1988-8, 9-8-1988)

11-9-3: RESPONSIBILITY FOR INSTALLATION COSTS:
The required improvements as listed elsewhere are to be furnished and installed at the sole expense of the applicant. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may, at the discretion of the city council, be made for causing a portion of the cost of the improvement, representing the benefit to such lands, to be assessed against the same. In such a situation, the applicant may be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

11-9-4: AGREEMENT FOR INSTALLATION[1] :
A. Prior to the installation of any required improvements by the applicant and prior to approval of the plat, the applicant shall enter into a contract in writing with the city requiring the applicant to furnish and construct said improvements at applicant's sole cost and in accordance with city plans and specifications and usual contract conditions. This shall include provision for supervision of details of construction by the city engineer and shall grant to the city engineer authority to coordinate the work and improvements to be done under said contract by any subcontractor authorized to

proceed thereunder and with any other work being done or contracted by the city in the vicinity. (Amended Ord. 1988-8, 9-8-1988)

B. The agreement shall require the applicant to make an escrow deposit or furnish an irrevocable letter of credit or a certified check as is determined by the city attorney, city engineer, and city administrator. The amount of the deposit or security is to be based upon the city engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. The deposit or security shall equal one hundred percent (100%) of the city engineer's estimate of all municipal improvements, plus one hundred fifty percent (150%) of the estimated cost of all landscaping to be installed, plus fifty percent (50%) of the cost of on and off site improvements such as bituminous driveways, sod, and seeding. This amount may be reduced or increased upon approval of a city council resolution based upon such consideration as the size of the project, past performance by the applicant and/or financial credibility of the applicant, but in no case shall the amount be less than fifty percent (50%) of the city engineer's estimate. On request of the applicant, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat. In such event, and if evidence is presented that the described work and improvements have been paid for, the amount of the deposit may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat. (Ord. 2009-010, 6-1-2009)

C. The time for completion of the work and the several parts thereof shall be determined by the city council, upon recommendation of the engineer after consultation with the applicant. It shall be reasonable with relation to the work to be done, the seasons of the year, and proper coordination with construction activities in the plat and subdivision.

D. No applicant shall be permitted to start work on any other subdivision, without special approval of the governing body, if applicant has previously defaulted on work or commitments. (Amended Ord. 1988-8, 9-8-1988)

Notes

1 1. See also section 10-1-2 of this code.

11-9-5: FINANCIAL GUARANTEE [1] :
The contract provided for in section 11-9-4 of this chapter shall require the applicant to make an escrow deposit or provide a certified check or irrevocable letter of credit as determined by the city attorney, city engineer and city administrator. The escrow deposit, certified check or irrevocable letter of credit shall conform to the requirements of this chapter.

A. Escrow Deposit; Certified Check: If an escrow deposit or certified check is required, the escrow deposit or certified check shall be made with the city treasurer in a sum equal to the amount calculated as provided in section 11-9-4 of this chapter, as estimated by the city engineer, of all the improvements to be furnished and installed by the applicant pursuant to the contract (developer's agreement), which have not been completed prior to approval of the plat. The total cost shall include costs of inspection by the city. The city shall be entitled to reimburse itself out of said deposit or check for any cost and expense incurred by the city for completion of the work in case of default of the applicant under said contract, and for any damages sustained on account of any breach thereof. Upon completion of the work and termination of any liability, the balance remaining in said deposit or check shall be refunded to the applicant. (Amended Ord. 1988-8, 9-8-1988)

B. Irrevocable Letter Of Credit: If an irrevocable letter of credit is required, it shall be payable to the order of the city and delivered to the city treasurer and city administrator in a sum equal to the amount calculated, as provided in section 11-9-4 of this chapter, as estimated by the city engineer for all the improvements to be furnished and installed by the applicant pursuant to the contract (developer's agreement), which have not been completed prior to the approval of the plat. The total cost shall include costs of inspection by the city. The irrevocable letter of credit must be from a bank which is insured by the FDIC and which has a branch within one hundred (100) miles of the Albertville city hall where the letter of credit can be drawn upon, unless an exception to the one hundred (100) mile limitation is approved by the city council. All letters of credit must automatically renew annually unless the issuing bank sends the city a letter via certified mail at least sixty (60) days prior to expiration notifying the city that the letter of credit will not be renewed upon its stated expiration date. The irrevocable letter of credit shall be approved as to form by the city attorney. (Ord. 2009-010, 6-1-2009)

Notes

1 1. See also sections 10-1-2 and 10-1-3 of this code.

11-9-6: COMPLETION OF IMPROVEMENTS PRIOR TO FINAL PLAT APPROVAL:
Improvements within a subdivision which have been completed prior to application for approval of the final plat, or execution of the contract for installation of the required improvements, shall be accepted as equivalent improvements in compliance with this chapter only if the city engineer certifies the existing improvements conform to applicable standards and if evidence of payment for the work that has been completed is presented in such form as the city reasonably requires. (Amended Ord. 1988-8, 9-8-1988)

11-9-7: TRUNK FACILITIES:
Where a larger size water main, sanitary sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility required shall be constructed. Additional costs may, at the discretion of the city council, be allocated pursuant to established city policies. (Amended Ord. 1988-8, 9-8-1988; amd. 2005 Code)

11-9-8: ALTERNATE INSTALLATION:
The city council may elect to install any or all of the required improvements pursuant to a cash escrow agreement or other financial arrangements with the applicant. (Amended Ord. 1988-8, 9-8-1988)

APPENDIX A:

ZONING ORDINANCE

CHAPTER 100

TITLE AND APPLICATION

SECTION:

100.1: Short Title

100.2: Intent And Purpose

100.3: Relation To Comprehensive Municipal Plan

100.4: Standard Requirements

100.5: Uses Not Provided For Within Zoning Districts

100.6: Monuments

100.7: Separability

100.8: Authority

100.9: Comprehensive Revision

100.10: Fees, Charges, And Expenses

100.1: SHORT TITLE:
This ordinance shall be known, cited and referred to as the*ALBERTVILLE ZONING REGULATIONS*, except as referred to herein, where it shall be known as "this ordinance". (Ord. 1988-12, 12-19-1988)

100.2: INTENT AND PURPOSE:
The intent of this ordinance is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. Such regulations are established to protect such use areas; to promote orderly development and redevelopment; to provide adequate light, air and convenience of access to property; to prevent congestion in the public right of way; to prevent overcrowding of land and undue concentration of structures by regulating land, building, yards and density of population; to provide for compatibility of different land uses; to provide for the orderly transition from a rural to an urban or suburban environment; to provide for administration of this ordinance; to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the city staff, the board of adjustment and appeals, the planning commission, and the city council in relation to this ordinance. (Ord. 1988-12, 12-19-1988)

100.3: RELATION TO COMPREHENSIVE MUNICIPAL PLAN:
It is the policy of the city that the enforcement, amendment, and administration of this ordinance be accomplished with due consideration of the recommendations contained in the city comprehensive plan as developed and amended from time to time by the planning commission and city council of the city. The council recognizes the city comprehensive plan as the policy to regulate land use and development in accordance with the policies and purpose herein set forth. (Ord. 1988-12, 12-19-1988)

100.4: STANDARD REQUIREMENTS:
A. Where the conditions imposed by any provision of this ordinance are either more or less restrictive than comparable conditions imposed by other law, ordinance, rule or regulation of the city, the law, ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

B. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

C. No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this ordinance.

D. Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this ordinance.

E. No yard or lot existing at the effective date of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

F. In their application, these regulations shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable; provided, that where the regulations of this ordinance are more restrictive, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this ordinance shall be controlling. (Ord. 1988-12, 12-19-1988)

100.5: USES NOT PROVIDED FOR WITHIN ZONING DISTRICTS:
Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such cases, the city council or the planning commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable, and if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The city council, planning commission or property owner, upon receipt of the staff study, shall, if appropriate, initiate an amendment to this ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the city. (Ord. 1988-12, 12-19-1988)

100.6: MONUMENTS:
For the purpose of this ordinance, all international, federal, state, county and other official monuments, bench marks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to ensure that these markers are maintained in good condition during and following construction and development. All section, one-fourth ($^1/_4$) section and one-sixteenth ($^1/_{16}$) section corners shall be duly described and tied. (Ord. 1988-12, 12-19-1988)

100.7: SEPARABILITY:
It is hereby declared to be the intention of the city that the several provisions of this ordinance are separable in accordance with the following:

A. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.

B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment. (Ord. 1988-12, 12-19-1988)

100.8: AUTHORITY:
This ordinance is enacted pursuant to the authority granted by the municipal planning act, Minnesota statutes sections 462.351 to 462.363. (Ord. 1988-12, 12-19-1988)

100.9: COMPREHENSIVE REVISION:
The council intends this ordinance to be a comprehensive revision to ordinance 1975-5 and all other ordinances inconsistent with this ordinance, as amended. Any act done, offense committed, or rights accruing or accrued, or liability or penalty incurred or imposed prior to the effective date hereof is not affected by its enactment. (Ord. 1988-12, 12-19-1988)

100.10: FEES, CHARGES, AND EXPENSES:

A. Fees and charges, as well as expenses incurred by the city for engineering, planning, attorney and other services related to the processing of applications, shall be established by this zoning ordinance and collected by the zoning administrator for deposit in the city's accounts. Fees and escrows are established in section 3-1-3 of the city code. The council may establish charges for public hearings, special meetings, or other such council or planning commission actions as are necessary to process applications. Multiple applications shall require the collection of multiple fees and escrows. In the event that city costs in processing a development application exceed the escrow, the applicant shall be responsible for the said costs.

B. Such fees, charges, and estimated expenses (as well as deposit, if so required by the zoning administrator) shall be collected prior to city action on any application. All such applications must be accompanied by a written agreement between the city and the applicant/landowner (when the applicant is not the same person or entity as the landowner, both the landowner and the applicant must sign the agreement) whereby the applicant/landowner agrees to pay all applicable fees, charges, administrative, planning, engineering, and legal expenses associated with the review and processing of the development application, if these expenses exceed the application escrow, and which allows the city to assess the above fees, charges, and expenses against the landowner if such monies are not paid within thirty (30) days after a bill is sent to the applicant/landowner.

C. These fees shall be in addition to sewer access charges, water access charges, building permit fees, inspection fees, subdivision fees, charges, and expenses and other such fees, charges, and expenses currently required by ordinance or which may be established by ordinance in the future.

D. The city will not accept any application from an applicant, property owner, or occupant for a development, permit or license on a parcel of land that has outstanding fees, taxes, assessments, unpaid penalties, or unpaid licenses within the city. The applicant, property owner or occupant shall provide certification to the city that there are no delinquent property taxes, special assessments, interest, fees or penalties due upon the parcel of land to which the application relates to constitute a complete application to allow it to proceed through the city review process. Applicants may appeal to the city council for an exception to this section. Applicants must demonstrate an acceptable reason as to why such delinquent amounts cannot be paid prior to submitting an application. The city council may grant the exception at its discretion, and may impose increased escrow amounts or other requirements as a condition of granting such exception. (Ord. 13-010, 12-2-2013; amd. Ord. 2016-05, 6-20-2016; Ord. 2017-01, 1-3-2017)

CHAPTER 200

RULES AND DEFINITIONS

SECTION:

200.1: Rules

200.2: Definitions

200.1: RULES:
The language set forth in the text of this ordinance shall be interpreted in accordance with the following rules of construction:

A. The singular number includes the plural, and the plural the singular.

B. The present tense includes the past and the future tenses, and the future the present.

C. The word "shall" is mandatory while the word "may" is permissive.

D. The masculine gender includes the feminine and neuter.

E. Whenever a word or term defined hereinafter appears in the text of this ordinance, its meaning shall be construed as set forth in such definition thereof.

F. All measured distances expressed in feet shall be to the nearest tenth of a foot.

G. Whenever a calculation is made based upon the provisions herein, if a fraction of a number results, the more restrictive rounding to a whole number shall apply. (Ord. 1988-12, 12-19-1988)

200.2: DEFINITIONS:
The following words and terms, wherever they occur in this ordinance, shall be interpreted as herein defined:

ABUTTING: Making contact with or separated only by public right of way, railroad, public utility right of way or navigable waters.

ACCESSORY BUILDING OR USE: A subordinate building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

ADDITION: A physical enlargement of an existing structure.

ADULT USES: Include adult bookstores, adult motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as "obscene" as defined by Minnesota statutes section 617.241 are not included.

Specified Anatomical Areas:

A. Less than completely opaquely covered human genitals, pubic region, buttock anus, or female breast(s) below a point immediately above the top of the areola; and

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities:

A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

B. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or

C. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or

D. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or

E. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or

F. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

G. Human excretion, urination, menstruation, vaginal or anal irrigation.

ADULT USES, ACCESSORY: The offering of retail goods for sale which are classified as "adult uses" on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of adult magazines, the sale and/or rental of adult motion pictures, the sale of adult novelties, and the like.

ADULT USES, PRINCIPAL: The offering of goods and/or services which are classified as "adult uses" as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

A. Adult Use - Body Painting Studio: An establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".

B. Adult Use - Bookstore: A building or portion of a building used for barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, compact discs, computer software, digital recordings, motion picture film, or other communication mediums if such building or portion of a building is not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

C. Adult Use - Cabaret: A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

D. Adult Use - Companionship Establishment: A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

E. Adult Use - Conversation/Rap Parlor: A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

F. Adult Use - Health/Sport Club: A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

G. Adult Use - Hotel Or Motel: "Adult hotel or motel" means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

H. Adult Use - Massage Parlor, Health Club: A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

I. Adult Use - Mini Motion Picture Theater: A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material, if such building or portion of a building, as a prevailing practice, excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

J. Adult Use - Modeling Studio: An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

K. Adult Use - Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

L. Adult Use - Motion Picture Theater: A building or portion of a building, with a capacity of fifty (50) or more persons, used for presenting material, if such building or portion of a building, as a prevailing practice, excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified anatomical areas" for observation by patrons therein.

M. Adult Use - Novelty Business: A business which has, as a principal activity, the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

N. Adult Use - Sauna: A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

O. Adult Use - Steam Room/Bathhouse Facility: A building or a portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age, or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

ALLEY: A public or private right of way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

ANIMAL RELATED DEFINITIONS:

Domestic Animals: House pets such as dogs, cats, and birds which can be contained within a principal structure throughout the entire year; provided, that the containment can be accomplished without special modification to the structure requiring a building permit from the city. In addition, it includes birds and rabbits normally sheltered outside the home.

Farm Animals: Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as "farm animals" in the state of Minnesota.

ANTENNA RELATED DEFINITIONS:

Antenna, Personal Wireless Service: A device consisting of a metal, carbon fiber, or other electromagnetically conducive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the support structure thereof.

Antenna, Public Utility Microwave: A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications, and including the supporting structure thereof.

Antenna, Radio And Television, Broadcast Transmitting: A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming, and including the support structure thereof.

Antenna, Radio And Television Receiving: A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the supporting structure thereof.

Antenna, Satellite Dish: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas and support structures thereof.

Antenna, Short Wave Radio Transmitting And Receiving: A wire, set of wires or a device consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short wave radio communications, and including the supporting structure thereof.

Antenna Support Structure: Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

Tower: Any ground mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna or similar apparatus above grade.

Tower, Temporary Mobile: Any mobile tower, pole, or structure located on a trailer, vehicle or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, which is commonly referred to as cellular on wheels (COW).

APARTMENT: A portion of a building consisting of a room or suite of rooms which is designed for, intended for, or used as a residence by a single family or an individual, and is equipped with cooking facilities; includes dwelling unit and efficiency unit.

APPLICANT: The owner, his agent or person having legal control, ownership and/or interest in land which the provisions of this ordinance are being considered for or reviewed.

AUTOMOBILE REPAIR, MAJOR: General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.

AUTOMOBILE REPAIR, MINOR: Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding twelve thousand (12,000) pounds' gross weight, but not including any operation specified under the definition of "automobile repair, major" in this section.

BASEMENT: That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling (see definition of Story).

BAY: Cantilevered area of a room.

BOARDING (HOUSE) HOME - FOSTER CHILDREN: A family dwelling where children out of their own homes are cared for.

BOARDING (LODGING) HOUSE: A building, other than a hotel, where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided to three (3) or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than eight (8) persons.

BREWERY: A business which manufactures, processes and warehouses malt liquor for wholesale distribution, or directly sells beer product for on site consumption on the brewery premises or for off site consumption as growlers.

BREWPUB: A brewer that holds one or more retail on-sale licenses, and who manufactures fewer than three thousand five hundred (3,500) barrels of malt liquor in a year at one licensed premises, the entire production of which is solely for consumption on tap on the brewery site, or for off-sale from the brewery in the form of growlers.

BUFFER: The use of land, topography, difference in elevation, space, fences, or landscape plantings to screen or partially screen a use or property from the vision of another use or property.

BUILDABLE AREA: The space remaining on a lot after the minimum setback and open space requirements of this ordinance have been met.

BUILDING: Any structure having a roof and built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

BUILDING HEIGHT: The vertical distance from the average of the highest and lowest point of grade for that portion of the lot covered by the building to the highest point of the roof for flat roofs, to the roof deck line of mansard roofs, and to the point midway between the eave and ridge on all other roof types.

BUILDING- INTEGRATED SOLAR ENERGY SYSTEM: A solar energy system that is an integral part of a principal building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building including, but not limited to, photovoltaic or hot water solar systems.

BUILDING LINE: A line parallel to the street right of way at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right of way line; within shoreland districts, "building line" shall also mean a line at the required setback beyond

which a structure may not extend.

BUILDING SETBACK: The minimum horizontal distance between the building and the lot line.

BUSINESS: Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

CARPORT: A canopy constructed of metal or other materials supported by posts, either ornamental or solid, and completely open on one or more sides.

CELLAR: That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to floor below is equal to or greater than the vertical distance from grade to ceiling.

CEMETERY: A site or property set apart for the burial or interment of the human dead.

CHANNEL: A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

CHURCH: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CITY COUNCIL: The governing body for the city of Albertville.

CLEAR CUTTING: The removal of an entire stand of trees and/or vegetation.

CLUB OR LODGE: A nonprofit association of persons who are bona fide members paying annual dues, where use of premises is restricted to members and their guests.

CLUSTER DEVELOPMENT: The development patterns and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land as accomplished through a planned unit development.

COMMERCIAL RECREATION: Bowling alley, cart track, jump center, golf, billiards (pool) hall, vehicle racing or amusement, dance hall, skating, trampoline, boat rental, campgrounds, park, and similar uses.

COMMERCIAL USE: The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services, including, but not limited to:

A. Automobile Repair, Major: General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.

B. Automobile Repair, Minor: An establishment providing goods or services related to automobiles such as car washes, repair businesses limited to minor engine repair, fluid changing, tire service and muffler repair and other uses of similar character, but not including uses defined as a "major automobile business" or "automobile sales".

C. Automobile Sales: The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, trailers or recreational vehicles, including any major or minor automobile repair or service uses conducted as an accessory use.

D. Automobile Service Station: Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels, and including, as an accessory use, the sale and installation of lubricants, tires, batteries, and similar accessories.

E. Hospitality Business: An establishment offering transient lodging or accommodations at a daily rate to the general public, leasable events, meeting or conference facilities, banquet halls, exhibition halls, hotels, motels, convention facilities, and hostels.

F. Liquor Sales, Off Sale: Licensed sale of intoxicating beverages for consumption off site.

G. Liquor Sales, On Sale: Licensed sale of intoxicating beverages for consumption at the premises where the beverage is purchased.

H. Motor Fuel Station: A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.

I. Office Business, Clinic: An establishment located within a building or portion of a building providing outpatient health services to patrons, including general medical clinics, mental health providers, chiropractors, dentists, orthodontia, oral surgeons, opticians, and other state licensed medical services.

J. Office Business, General: An establishment located within a building or portion of a building for the conduct of business activities involving predominantly professional administrative or clerical service operations, including attorneys, financial advisors, insurance, travel, and real estate.

K. Personal Service: Includes the following: barbershop, beauty salon, electrolysis, manicurist, tanning parlor, physical therapy, and therapeutic massage, acupuncture, pedicure and shiatsu.

L. Recreational Business: Arcade, health club, gymnasium, bowling alley, billiard (pool) hall, dance hall, dance studio, skating rink, and theater.

M. Restaurant: An establishment that serves food in individual servings for consumption on or off premises, including sit down restaurants, take out, pick up, or delivery food sales, but not including drive-through facilities. Outdoor dining areas and drive-through facilities may or may not be allowed in each zoning district (they are not automatically allowed when a restaurant is an allowable use).

N. Retail Business: An establishment engaged in the display and sale of products produced off site directly to consumers within a building or portion of a building excluding any exterior display and sales.

O. Service Business, Off Site: A company that provides services related to maintenance, repair and activities incidental to business production or distribution where the service is provided at the customer's location, including delivery services, catering services, plumbing and sewer services.

P. Service Business, On Site: An establishment that provides services related to maintenance, repair and activities incidental to business production or distribution where the customer patronizes the location of the operation, such as banks (not including drive-through facilities), copy centers, laundromats, dry cleaners, funeral homes and mortuaries, appliance repair, tailor shops, and travel bureaus.

COMMON OPEN SPACE: Any open space, including parks, nature areas, playgrounds, trails, and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.

COMPREHENSIVE PLAN: A comprehensive plan prepared by the city, including a compilation of policy statement goals, standards and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the city, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

CONCEPT PLAN: A report in map and text form submitted as the first phase of a planned unit development (PUD) proposal, depicting the location, general purpose, general type of land use and circulation patterns, primary relationships between site elements and between the proposed development and surrounding development, proposed general schedule of development, and information on the applicant.

CONDITIONAL USE: Those occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning use district which, for the respective conduct or performance in such designated use districts, may require reasonable, but special conditions, plans, limitations, or performance standards to govern such uses for the promotion or preservation of the general public welfare, health, convenience and the integrity of the city comprehensive plan.

CONDITIONAL USE PERMIT: A permit issued by the city council, in accordance with procedures specified in this ordinance, as a flexibility device to enable the city council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

CONDOMINIUM: A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota condominium law, Minnesota statutes sections 515A.1-101 to 515A.4-118.

CONVENIENCE FOOD ESTABLISHMENT: An establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

COOPERATIVE (HOUSING): A multiple-family dwelling owned and maintained by the residents and subject to the provisions of Minnesota statutes. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

COURT: An unoccupied open space, other than a yard, which is bounded on two (2) or more sides by the walls of the buildings.

CURB LEVEL: The elevation of the established curb in front of a building measured at the center of such front. Where no curb level has been established, the city engineer shall determine a curb level or its equivalent for the purpose of this ordinance.

DAYCARE FACILITY: Any state licensed facility, public or private, which, for gain or otherwise, regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty four (24) hours per day, in a place other than the person's own home. "Daycare facilities" include, but are not limited to: family daycare homes, group family daycare homes, daycare centers, day nurseries, nursery schools, daytime activity centers, day treatment programs, and day services as further defined by the state.

DENSITY, RESIDENTIAL: A number expressing the relationship of the number of dwellings to an acre of land as established in the comprehensive plan.

DEPARTMENT STORE: A business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed.

DEPOSITION: Any rock, soil, gravel, sand or other material deposited naturally or by man into a water body, watercourse, floodplain or wetland.

DRAINING: The removal of surface water or groundwater from land.

DREDGING: To enlarge or clean out a water body, watercourse, or wetland.

DRIVE-IN FOOD ESTABLISHMENT: An establishment which accommodates the patron's vehicle from which the occupants may receive a service or in which products purchased from the establishment may be consumed, typically in the customer's vehicle.

DWELLING: A building, or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple-family dwellings, but not including hotels, motels, boarding houses, or manufactured housing.

DWELLING, MULTIPLE (APARTMENT): A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.

DWELLING, SINGLE-FAMILY: A dwelling unit designed exclusively for occupancy by one family.

Attached: A dwelling which is joined to another at one or more sides by a party wall.

Detached: A dwelling unit not attached to another dwelling or structure or is entirely surrounded by open space.

DWELLING, TWO-FAMILY: A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

Double Bungalow: A two-family dwelling with two (2) units side by side.

Duplex: A two-family dwelling unit with one unit above the other.

DWELLING UNIT: A residential building or portion thereof intended for occupancy by one family with facilities for living, sleeping, cooking, and eating, but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, motor homes or travel trailers. Within shoreland districts, "dwelling unit" shall mean any structure or portion of a structure, or other shelter designed as short or long term living quarters for one or more persons, including rental or timeshare accommodations such as motels, hotels, and resort rooms and cabins.

EASEMENT: A grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.

EFFICIENCY APARTMENT: A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets, or dining alcove.

ELDERLY (SENIOR CITIZEN) HOUSING: A public agency owned or controlled multiple dwelling building with open occupancy limited to persons over sixty (60) years of age.

ELEVATOR PENTHOUSE: An enclosure located on the top of a building which houses the working mechanisms of an elevator.

EMERGENCY OVERFLOW (EOF): A water flow path that is designed to safely remove excess water in case a pond or water body becomes higher than expected.

ENGINEER: The professional engineer engaged by the city council.

EROSION: The wearing away of land surface by the action of natural elements.

ESSENTIAL SERVICE STRUCTURES: Structures and buildings necessary for the operation of essential services, including, but not limited to: telephone buildings, telephone booths, gas regulator stations, substations, electrical stations, water tanks and lift stations.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or municipal departments of underground or

overhead telephone, gas, electrical, communication, water or sewer transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Transmission/reception support structures and antennas shall not be considered an "essential service".

EXTERIOR STORAGE: The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

FACILITIES FOR HOUSING ANIMALS: Any structure designed, built, and/or installed to house animals.

FAMILY: An individual, or two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than three (3) persons not so related, maintaining a common household and using common cooking and kitchen facilities.

FARM: An unplatted tract of land containing approximately ten (10) acres or more, or two (2) or more abutting parcels under the same ownership having an area of approximately ten (10) acres, measured from the centerline of abutting roads, for purposes of residential density, usually with a house and barn and other buildings on which crops and often livestock are raised for a source of livelihood.

FARM, HOBBY: An unplatted tract of land generally consisting of ten (10) or less acres in size with a house and accessory buildings on which crops and often livestock are raised but not as a principal source of income. A "hobby farm" shall not qualify for exemptions provided in this ordinance for farms.

FARMING: Process of operating a farm for the growing and harvesting of crops, which shall include those necessary buildings related to operating the farm, and the keeping of common domestic farm animals.

FARMSTEAD: A dwelling unit surrounded by or connected to farm buildings, all under single ownership.

FENCE: Any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

Fence - Boundary Line: A fence located along the boundary of a lot or parcel intended to identify and/or enclose any part of a required yard.

Fence - Interior Yard: A fence other than that described in the definition of "fence - boundary line" herein, intended to enclose flower and/or vegetable gardens within a yard.

FILLING: The act of depositing any rock, soil, gravel, sand or other material so as to fill a water body, watercourse, or wetland.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as retailing activities, the production or processing of goods, or to business or professional offices. However, the "floor area" shall not include: basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The "floor area" of a residence shall not include the cellar area.

GARAGE, PRIVATE: An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles and trucks not exceeding twelve thousand (12,000) pounds' gross weight, of the family or families resident upon the premises, and in which no business service or industry is carried on.

GARAGE, PUBLIC: A building or portion of a building, except any herein defined as "private garage" or as a "repair garage", used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire and in which any sale of gasoline, oil and accessories is only incidental to the principal use (see also definitions of Automobile Repair, Minor and Automobile Repair, Major).

GRADE (ADJACENT GROUND ELEVATION): The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet (5') from the building, between the building and a line five feet (5') from the building.

GRADING: Changing the natural or existing topography of land.

GUESTROOM: A room occupied by one or more guests for compensation and in which no provision is made for cooking.

HIGH WATER LEVEL (HWL): The highest water level achieved in a water body predicted by the 100-year critical storm event.

HOME OCCUPATION: Any occupation or profession engaged in by the occupant of a residential dwelling unit which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.

HOTEL: Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six (6) or more guestrooms used, designated, or intended to be used, let or hired out to be occupied, or which are occupied by six (6) or more individuals for compensation, whether the compensation be paid directly or indirectly.

ILLEGAL NONCONFORMING STRUCTURE OR USE: A building, structure, premises or use illegally established prior to the effective date hereof or any amendment hereto which did not conform with the applicable conditions or provisions of the city code for the district in which the structure or use is located.

IMPERVIOUS SURFACE: An artificial or natural surface through which water, air, or roots cannot penetrate.

INTERLOCK: The painted line or barrier in a parking lot that separates two (2) facing rows of parking from one another.

JUNKYARD: An open area where waste, used, or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other materials, paper, rags, rubber, tires, lumber, and bottles. A "junkyard" includes an auto wrecking yard but does not include uses established entirely within closed buildings nor sanitary landfills.

KENNEL, COMMERCIAL: Any place where: a) more than two (2) dogs over six (6) months of age are owned, kept, boarded, or bred for purpose of sale; or b) more than two (2) dogs over six (6) months of age and owned by persons other than the kennel owner are kept or boarded for a fee or other remuneration.

KENNEL, PRIVATE: Any place where more than two (2) dogs over six (6) months of age owned by the kennel owner are kept for private enjoyment and not for breeding, sale, a fee or other remuneration.

LAND RECLAMATION: The process of the reestablishment of acceptable topography (i.e., slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

LANDSCAPING: Plantings such as trees, flowers, grass and shrubs and improvements directly related thereto.

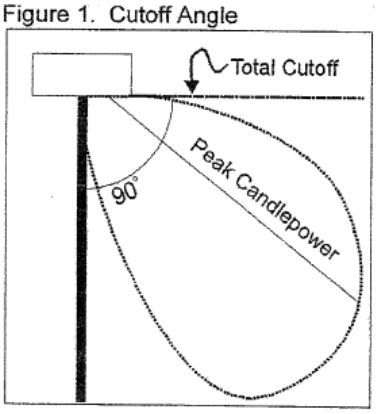
LEGAL NONCONFORMING STRUCTURE OR USE: A building, structure, premises or use lawfully established prior to the effective date hereof or any amendment hereto which does not now conform with the applicable conditions or provisions of this ordinance for the district in which the structure or use is located.

LIGHTING RELATED DEFINITIONS:

Cutoff: The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated at a specific angle above the ground.

Cutoff Angle: The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which light is emitted (see figure 1 of this definition).

Figure 1. Cutoff Angle



Cutoff Type Luminaire: A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety degrees (90°).

Flashing Light: A light source which is not constant in intensity or color at all times while in use.

Foot-Candle: A unit of illumination produced on a surface, all points of which are one foot (1') from a uniform point source of one candle.

Light Source: A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.

Luminaire: A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

Outdoor Light Fixture: Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including, but not limited to, the hardware casing. Such devices shall include, but are not limited to, search, spot, and floodlights for:

A. Buildings and structures.

B. Recreational areas.

C. Parking lot lighting.

D. Landscaping lighting.

E. Signs.

F. Street lighting.

G. Product display area lighting.

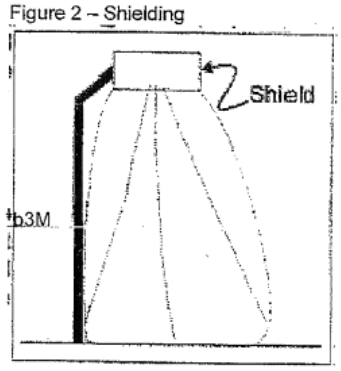
H. Building overhangs and open canopies.

Outdoor Lighting: Any light source or collection of light sources located outside a building, including, but not limited to, light sources attached to any part of a structure located on the surface of the ground or located on freestanding poles.

Security Lighting: Outdoor lighting fixtures installed exclusively as a measure to reduce the possible occurrence of a crime on the property.

Shielding: A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture (see figure 2 of this definition).

Figure 2 – Shielding



Spillage: Any reflection, glare or other artificial light that emits onto any adjoining property or right of way and is above a defined maximum illumination.

LIVESTOCK: Any animals or poultry or other fowl, except dogs, cats and birds, owned by the resident of the premises and kept as pets but not for commercial sale except incidental to their character as pets.

LOADING SPACE: That portion of a lot or plot designed to serve the purpose of loading or unloading for all types of vehicles.

LODGING (BOARDING) ROOM: A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as one lodging room.

LOT (OF RECORD): A parcel of land, whether subdivided and/or otherwise legally described and recorded as of March 17, 1975, or approved by the city as a lot, and which is occupied by or intended for occupancy by one principal building or principal use together with any accessory buildings and such open spaces as required by this ordinance and having its principal frontage upon a public street.

LOT AREA: The total land area of a horizontal plane within the lot lines.

LOT, BASE: Lots meeting all the specifications in the zoning district prior to being subdivided into a two-family dwelling or quadraminium subdivision.

LOT, CORNER: A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty five degrees (135°) or less.

LOT DEPTH: The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety degree (90°) angle from the street right of way within the lot boundaries.

LOT, DOUBLE FRONTAGE: An interior lot having frontage on two (2) streets.

LOT, FRONT: The front of a lot shall be, for purposes of complying with this ordinance, that boundary abutting a public right of way having the least width.

LOT IMPROVEMENT: Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated, constituting a physical betterment of real property, or any part of such betterment.

LOT, INTERIOR: A lot, other than corner lot, including through or double frontage lots.

LOT LINE: A property boundary line of any lot held in single or separate ownership; except, where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right of way.

LOT LINE, REAR: That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet (10') in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet (10') in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT, SUBSTANDARD: A lot or parcel of land for which a deed has been recorded in the office of the Wright County recorder upon or prior to the effective date hereof which does not meet the minimum lot area, structure setbacks or other dimensional standards of this ordinance.

LOT, THROUGH: A lot fronting on two (2) parallel streets.

LOT, UNIT: Lots created from the subdivisions of a two-family dwelling or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.

LOT WIDTH: The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line.

MANUFACTURED HOME: Any single-family dwelling transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

MANUFACTURED HOME LOT: A section of ground in a manufactured home park designated as the location of one housing unit, and all other necessary improvements required by this ordinance.

MANUFACTURED HOME PARK: Any park, court, lot, parcel or tract of land designed, improved, maintained or intended for the purpose of supplying a location for manufactured home units or upon which any manufactured homes are parked. It shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the "manufactured home park" or not.

MEDICAL AND DENTAL CLINICS: A structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.

METES AND BOUNDS: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

MINERALS: Soil, clay, stone, sand and gravel and other similar solid material or substance to be mined from natural deposits.

MINING: All or part of the process involved in the extraction of minerals by removing the overburden and extracting directly from the mineral deposits thereby exposed.

MODEL HOME: A home which is similar to others in a development and which is open to public inspection for the purpose of selling said other homes.

MOTEL/MOTOR HOTEL: A building or group of detached, semidetached or attached buildings containing guestrooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located next to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests traveling by automobile.

MOTOR FREIGHT TERMINAL (TRUCK TERMINAL): A building or area in which freight brought by motor truck is sorted, transferred and/or stored for movement.

MOTOR FUEL STATION: A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.

NATURAL DRAINAGE SYSTEM: All land surface areas which, by nature of their contour configuration, collect, store and channel surface water runoff.

NORMAL WATER LEVEL (NWL): For a reservoir with a fixed overflow, the NWL is lowest crest level of that overflow. For a reservoir whose outflow is controlled wholly or partly by movable gates, siphons or other means, it is the maximum level to which water may rise under normal operating conditions, exclusive of any provision for flood storage. For a closed depression wetland, it is the maximum level to which the water may rise under normal precipitation conditions exclusive of any provision for flood storage.

NOXIOUS MATTER OR MATERIAL: Material capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental

effects on the physical or economic well being of individuals.

NURSERY, LANDSCAPE: A business growing and selling trees, flowering and decorative plants, and shrubs.

NURSING HOME: A private building with facilities for the care of the infirm, or a place of rest for those suffering bodily disorders, but not containing equipment for surgical care or for treatment of disease or injury. The "nursing home" shall be licensed by the state board of health as provided for in Minnesota state statutes.

OCCUPANCY: The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

OFF STREET LOADING SPACE: A space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials.

OFF STREET PARKING SPACE: An area of such shape and dimensions as provided by this ordinance, enclosed in the principal building, in an accessory building, or unenclosed, sufficient in size to store one motor vehicle, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of a motor vehicle.

OPEN SALES LOT: Land devoted to the display of goods for purchase, sale, rent, lease or trade where such goods are not enclosed within a building, and for the storage of same prior to sale.

OPEN SPACE: Any open area not covered by structures, but not limited to the following uses: required or established yard areas, parking areas, sidewalks, school walks, trails, recreation areas, water bodies, shorelands, watercourses, wetlands, groundwater recharge areas, floodplain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitation for development.

OPEN STORAGE: Storage of material outside of a building.

ORDINARY HIGH WATER LEVEL (OHWL OR OHW): The Minnesota DNR jurisdictional boundary of public waters and wetlands that is depicted by an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reserves and flowage, the ordinary high water level is the operating elevation of the normal summer pool.

OUTDOOR LIVING SPACE: Any detached accessory building utilized as a living space such as a gazebo, screened porch, or playhouse.

OUTPATIENT CARE: Medical examination or service available to the public in a hospital. This service is provided without overnight care and shall be considered a separate, independent, principal use when combined or operated in conjunction with a hospital.

OVERBURDEN: The earth, rock and other materials that lie above a natural deposit of mineral.

OWNER: Any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the land.

PARCEL: An individual lot or tract of land.

PARKING SPACE: An area of such shape and dimensions as provided by this ordinance, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one motor vehicle, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

PARTY WALL: A common wall which divides two (2) independent structures by a firewall.

PAWNBROKER: Any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

PAWNSHOP: The location at which or premises in which a pawnbroker regularly conducts business.

PERFORMANCE STANDARD: Criterion established for setbacks, fencing, landscaping, screening, drainage, accessory buildings, outside storage and to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat or other nuisance elements generated by or inherent in uses of land or buildings.

PERMITTED USE: A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

PERSON: An individual, firm, partnership, association, corporation, legal entity, or organization of any kind.

PERSONAL SERVICES: The following uses are defined as "personal services": acupuncture, barbershop, beauty salon, chiropractor, electrolysis, manicure, pedicure, physical therapy, shiatsu, tanning parlor, and therapeutic massage.

PET SHOP: A place kept or maintained for the exhibition for sale, or sale or purchase of live dogs, cats, rabbits or other small animals, or any birds, reptiles or fish. Pet shops may include incidental animal grooming and adoption activities, but not animal hospitals, veterinary clinics, or places selling live bait for fishing.

PLANNED UNIT DEVELOPMENT: As a zoning district, a development procedure whereby a mixing of buildings and uses can occur which cannot be otherwise addressed under this ordinance may be allowed to improve site design and operation (see also definition of Cluster Development).

PLANNING COMMISSION: The duly appointed Albertville planning commission[1] .

POLE BUILDINGS: Any structure possessing the following characteristics: structural wood poles or timbers buried in ground on individual footings; metal wall coverings hung vertically of less than 28-gauge. This definition shall not include or apply to decks, sign supports, earth retention structures, playground equipment, electric utilities, or any similar structure not covering or enclosing a specific area.

PRINCIPAL USE: The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted or conditional.

PROTECTIVE COVENANT: A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

PUBLIC USES: Uses owned or operated by municipal, school districts, county, state, or other governmental units.

PUBLICATION: Notice placed in the official city newspaper stating time, location and date of meeting and description of the topic.

QUADRAMINIUM: A single structure which contains four (4) separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure.

RECREATION FIELD OR BUILDING: An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semipublic use, whether temporary or permanent, except a theater, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium, circus or gymnasium is a "recreation field or building" for the purpose of this ordinance.

RECREATIONAL VEHICLE: Includes, without limitation, the following, provided the same are operable and licensed (as required by the state) to the property owner or resident of the premises where stored: manufactured homes less than thirty five feet (35') in overall length, including those which telescope or fold down; chassis mounted campers, house cars, motor homes, tent trailers, slip-in campers (those mounted in a pickup truck or similar vehicle), converted buses, converted vans used primarily for recreational purposes; snowmobiles, boats/watercraft, all-terrain vehicles and any nonmotorized trailer that transports recreational vehicles such as boats and snowmobiles. A boat, snowmobile or other recreational vehicle, when stored or kept on a trailer, shall be considered one "recreational vehicle". A "recreational vehicle" does not include cars used for racing, off road use or demolition derby.

RESIDENTIAL DUMPSTER BAG: A storage bag temporarily placed on a property for use in storing waste materials from household relocation or improvement projects.

RESTAURANT: An establishment which serves food in or on nondisposable dishes to be consumed primarily while seated at tables or booths within the building.

SCHOOL: A building used for the purpose of elementary or secondary education, which meets all the requirements of compulsory education laws of the state of Minnesota, and not providing residential accommodations.

SECONDHAND GOODS: Tangible personal property, previously owned, or used, by a person other than the dealer offering the item for sale, including electronic audio or video equipment, clothing, household items, firearms, power tools, computers, computer-related equipment, jewelry, coins, and precious metals.

SECONDHAND GOODS DEALER: Any person whose regular business includes selling or receiving secondhand goods, including auction house dealers, consignment house dealers, flea market dealers and antique dealers, but not including used car sales involving vehicles with titles requiring registration with the Minnesota Department of Motor Vehicles under Minnesota Statutes chapter 168, or boats required to be registered with the Department of Natural Resources.

SECONDARY USE: A use of land or of a building or a portion thereof which is subordinate to and does not constitute the primary use of the land or building.

SEMIPUBLIC USE: Uses owned by private or private nonprofit organizations which are open to some, but not all, of the public, such as denominational cemeteries, private schools, clubs, lodges, recreation facilities, churches, etc.

SEPTIC SEWER DISPOSAL SYSTEM: A "septic sewer disposal system" consists of: septic tank, absorption field of standard trenches or a dry well, house sewer and outlet sewer. In the septic tank, bacterial action breaks down sewage; standard trenches or a dry well handles final disposal of liquid from the septic tank; the house sewer brings wastes to the tank, and the outlet sewer carries sewage liquids (effluent) from the absorption field.

SETBACK: The minimum horizontal distance between a structure and the nearest property line; within shoreland districts, it shall mean the minimum horizontal distance between a structure, sewage treatment system, top of bluff, road, highway, property line, or other facility. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided hereinafter.

SHIATSU: A massage in which finger pressure is applied to those areas of the body used in acupuncture.

SHOPPING CENTER: An integrated grouping of commercial stores, under single ownership or control.

SHORELAND RELATED DEFINITIONS:

Accessory Structure Or Facility: Any building or improvement subordinate to a principal use, which can reasonably be located at or greater than normal structure setbacks.

Bluff: A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

A. Part or all of the feature is located in a shoreland area;

B. The slope rises at least twenty five feet (25') above the ordinary high water level of the water body;

C. The grade of the slope from the toe of the bluff to a point twenty five feet (25') or more above the high water level averages thirty percent (30%) or greater; and

D. The slope must drain toward the water body.

Bluff Impact Zone: A bluff and land located within twenty feet (20') from the top of a bluff.

Boathouse: A structure designed and used solely for the storage of boats or boating equipment.

Commercial Planned Unit Developments: Are typically used to provide transient, short term lodging spaces, rooms, or parcels, and their operations are essentially service oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service oriented activities are "commercial planned unit developments".

Commissioner: The commissioner of the department of natural resources.

Deck: A horizontal, unenclosed platform, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet (3') aboveground.

Dwelling Site: A designated location for residential use by one or more persons using temporary or moveable shelter, including camping and recreational vehicles sites.

Effective Lot Coverage: "Percent effective lot coverage" means the portion (percentage) of a lot or parcel that will be covered with impervious surface following completion of the development activity and is calculated by dividing the impervious surface area by the total lot or parcel area.

Extractive Use: The use of land for surface or subsurface removal or sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota statutes sections 93.44 to 93.51.

Forest Land Conversion: The clear cutting of forested lands to prepare for a new land use other than reestablishment of subsequent forest stand.

Guest Cottage: A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Impervious Surface: An artificial or natural surface through which water, air, or roots cannot penetrate.

Intensive Vegetation Clearing: The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

Lot Coverage: The portion (percentage) of a lot or parcel that will be covered with impervious surface following completion of the development activity and is calculated by dividing the impervious surface area by the total lot or parcel area.

Ordinary High Water Level: The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the "ordinary high water mark" is the elevation of the top of the bank of the channel. For reservoirs and flowages, the "ordinary high water level" is the operating elevation of the normal summer pool.

Public Waters: Any waters as defined in Minnesota statutes section 103G.005, subdivision 15.

Residential Planned Unit Development: A use where the nature of residency is nontransient and the major or primary focus of the development is not service oriented. For example, residential apartments, manufactured home parks, timeshare condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as "residential planned unit developments". To qualify as a "residential planned unit development", a development must contain at least five (5) dwelling units or sites.

Sensitive Resource Management: The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Sewage Treatment System: A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in section 4905.8 of this ordinance.

Sewer System: Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Shore Impact Zone: Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback.

Shoreland: Land located within the following distances from public waters: one thousand feet (1,000') from the ordinary high water level of a lake, pond, or flowage; and three hundred feet (300') from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of "shorelands" may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

Significant Historic Site: Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota statutes section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be "significant historic sites".

Steep Slope: Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available design and construction techniques and farming practices, are used in accordance with the provisions of this ordinance. Where specific information is not available, "steep slopes" are lands having average slopes of over twelve percent (12%), as measured over horizontal distances of fifty feet (50') or more, that are not bluffs.

Surface Water Oriented Commercial Use: The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Toe Of The Bluff: The lower point of a fifty foot (50') segment with an average slope exceeding eighteen percent (18%).

Top Of The Bluff: The higher point of a fifty foot (50') segment with an average slope exceeding eighteen percent (18%).

Water Oriented Accessory Structure Or Facility: A small, aboveground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

SIGN: Any letter, word, symbol, device, poster, picture, statuary, reading matter or representation in the nature of an advertisement, announcement, message, or visual communication, whether painted, pasted, printed, affixed or constructed, which is displayed outdoors for informational or communicative purposes. It shall include, but not be limited to, the following types and purposes of signs: advertising, area identification, business, directional, flashing, freestanding, illuminated, institutional, nameplate, pylon, rotating, swinging, temporary and traffic control.

SIMPLIFIED HYDROLOGIC YIELD METHOD (SHYM): Methodology for assessing water elevations of landlocked basins.

SITE PLAN: A map drawn to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, and walkways, as related to a proposed development.

SLOPE: The degree of deviation of a surface from the horizontal, usually expressed in percent of degrees.

SOLAR ENERGY SYSTEM: A device or structural design feature, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation or water heating.

SPORTS TRAINING FACILITY: A private establishment, not open to the general public, offering advanced appointment only individual or group athletic training programs for specific sports and athletic activities often associated with athletic organizations, sport associations, and schools, supervised by specialized coaches present for all training sessions and where tournaments and competitions may be held.

STACKING AREA: That area which allows for a line of automobiles in such instances as drive-up tellers and other vehicle service areas.

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; except, that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the unfinished floor level directly above a basement, cellar, or unused under-floor space is more than six feet (6') above "grade", as defined in this section, for more than fifty percent (50%) of the total perimeter, or is more than twelve feet (12') above "grade", as defined in this section, at any point, such basement, cellar, or unused under-floor space shall be considered as a "story".

STREET: A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road or way.

STREET, COLLECTOR: A street which carries traffic from local streets to the major system of arterials and highways. Collector streets primarily provide principal access to residential neighborhoods, including, to a lesser degree, direct land access.

STREET, LOCAL: A street intended to serve primarily as an access to abutting properties.

STREET, MAJOR OR ARTERIAL: A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

STREET PAVEMENT: The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH: The shortest distance between the lines delineating the right of way of a street.

STRUCTURAL ALTERATION: Any change, other than incidental repairs, which would prolong or modify the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

STRUCTURE: Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner, whether temporary or permanent in character. Among other things, "structures" include buildings, manufactured homes, walls, fences, swimming pools, billboards and poster panels.

STRUCTURE, PUBLIC: An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which is owned or rented and operated by a federal, state, or local government agency.

SURVEYOR: A person duly registered as a land surveyor by the state of Minnesota.

SWIMMING POOL: A structure designed to be used for swimming which has a capacity of one thousand (1,000) gallons or more or which has a depth of over twenty four inches (24").

TAPROOM: A room that is ancillary to the production of beer at a production brewery where the public can purchase and/or consume only the beer produced on site.

TEMPORARY OUTDOOR SEASONAL SALES: The temporary sale of agricultural produce, Christmas trees, flowers and the like sold and conducted by the operators of a legitimate, established business within the appropriate zoning district in the city. City licensed mobile food units and food carts as defined in section 4-4-2 of the city code do not fall within this definition, and are exempt from temporary outdoor seasonal sale requirements as provided in section 1000.22 of this ordinance.

TEMPORARY STORAGE CONTAINER: An enclosed freestanding container or dumpster temporarily placed on a property for use in storing materials for household relocation or improvement projects.

THRIFT STORE/SECONDHAND STORE: A shop that sells secondhand goods often supplied by donations from individuals dropping off the items at the shop, as to benefit a charitable organization or for-profit company.

TOWNHOUSES: Structures housing three (3) or more dwelling units contiguous to each other only by the sharing of one common wall, such structures to be of the town or row houses type as contrasted to multiple dwelling apartment structures.

TRAVEL TRAILER: Any trailer not used as a residence but is used for temporary living quarters for recreational or vacation activities and one that is towed on public roads in connection with such use.

TRUCK STOP: A motor fuel station devoted principally to the needs of trucks and which shall include eating and/or sleeping facilities.

USABLE OPEN SPACE: A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways and parking areas shall not constitute "usable open space".

USE: The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this ordinance.

VARIANCE: The waiving by the city council of the literal provisions of the zoning standards in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

VETERINARY CLINIC: Those uses concerned with the diagnosis, treatment, hospitalization, surgery and medical care of animals, which place is owned and operated by a licensed veterinarian.

WAREHOUSING: The storage of materials or equipment within an enclosed building.

WATER BODY: A body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

WATERSHED: The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

WETLANDS: Land that meets the definition of "wetlands" set forth in the wetland conservation act of 1991 (Minnesota laws chapter 354, as amended, supplemented or replaced from time to time) (codified, as amended, at Minnesota statutes sections 103G.222 to 103G.2372 and in other scattered sections, as amended, supplemented or replaced from time to time).

WHOLESALING: The selling of goods, equipment and materials by bulk to another business that in turn sells to the final customer.

WIND ENERGY CONVERSION SYSTEM (WECS): Any device that is designed to convert wind power to another form of energy such as electricity or heat (also referred to by the common names of wind charger, wind turbine and windmill).

YARD: An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the mean horizontal distance between the lot line and main building shall be used.

YARD, DEPTH OF: The mean horizontal distance between the line of a building and the lot line.

YARD, FRONT: A yard extending along any street frontage of a lot between the side lot lines and being the minimum horizontal distance between any street line and main building or any projections thereof other than the projections of the usual steps, entranceway, unenclosed balconies, or open porch.

YARD, REAR: A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies, or unenclosed porches. On corner lots,

the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall be, in all cases, at the opposite end of the lot from the front yard.

YARD, REQUIRED: That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

YARD, SIDE: A yard between the side line of the lot and the nearest line of the principal building, and extending from the front lot line of the lot to the rear lot line.

ZERO LOT LINE: The reduction of side yard setback requirements to zero, permitting the placement of a structure near or adjacent to the side yard lot line. With "zero lot line", no portion of the structure or accessory appurtenance shall project over the lot line, except as provided by party wall easement.

ZONING ADMINISTRATOR: The duly appointed officer charged with the administration and enforcement of this ordinance.

ZONING AMENDMENT: A change authorized by the City either in the allowed use with a district or in the boundaries of the district.

ZONING DISTRICT: An area or areas of the City (as delineated on the zoning map) set aside for specific uses with specific regulations and provisions for use and development as defined by this ordinance.

ZONING DISTRICT OVERLAY: A zoning district containing regulations superimposed upon other zoning district regulations and where the more restrictive district use regulations shall apply.

ZONING DISTRICT, UNDERLYING: All zoning districts except overlay zoning districts.

ZONING MAP: The map or maps incorporated into this ordinance as part thereof, designating the zoning districts. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; Ord. 1993-4, 4-5-1993; Ord. 1993-8, 6-7-1993; Ord. 1996-2, 2-12-1996; Ord. 1997-2, 6-3-1997; Ord. 1999-7, 10-19-1999; Ord. 1999-8, 10-19-1999; Ord. 1999-9, 10-19-1999; Ord. 2002-14, 8-5-2002; Ord. 2003-23, 11-3-2003; Ord. 2004-02, 1-5-2004; Ord. 2004-04, 3-15-2004; 2005 Code; Ord. 2007-05, 5-21-2007; Ord. 2007-12, 10-1-2007; Ord. 2008-006, 8-4-2008; Ord. 2009-009, 3-2-2009; Ord. 2009-006, 3-16-2009; Ord. 2014-02, 2-18-2014; Ord. 2014-03, 2-3-2014; Ord. 2014-08, 10-20-2014; Ord. 2017-09, 10-2-2017; Ord. 2021-10, 6-21-2021; 2022-09, 6-20-2022; Ord. 2023-08, 7-17-2023)

Notes

1 1. See title 2, chapter 2 of the city code.

CHAPTER 300

ADMINISTRATION - AMENDMENTS (TEXT AND MAP)

SECTION:

300.1: Procedure

300.2: Amendments Initiation

300.1: PROCEDURE:

A. Requests for rezoning (text or map) shall be filed with the zoning administrator on an official application form. Such application shall be accompanied by a fee established by section 3-1-3 of the city code. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials fully explaining the proposed change, development of use and list of property owners located within three hundred fifty feet (350') of the subject property. Said property owners' list shall be certified by the county or city. The request for amendment shall be placed on the agenda of the first possible planning commission meeting occurring twenty one (21) days from the date of submission of the application. The request shall be considered officially submitted when all the informational requirements are complied with.

B. The applicant shall supply proof of title of the property for which the rezoning is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded documents whereby the petitioners acquire a legal ownership or equitable ownership interest or supply written authorization from the owner(s) of the property in question to proceed with the requested rezoning.

C. Upon receipt of said application, the city administrator shall set a public hearing following proper hearing notification. The planning commission shall conduct the hearing and report its findings and recommendations to the city council. Notice of said hearing shall consist of a legal property description and description of the request, and shall be published in the official newspaper at least ten (10) days prior to hearing. Written notice of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty feet (350') of the property in question.

D. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this ordinance.

E. The zoning administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate and provide general assistance in preparing a recommendation on the action to the city council.

F. The planning commission shall consider possible adverse effects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official city comprehensive plan.

2. The proposed use is or will be compatible with present and future land uses of the area.

3. The proposed use conforms with all performance standards contained herein.

4. The proposed use will not tend to or actually depreciate the area in which it is proposed.

5. The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.

6. Traffic generation by the proposed use is within the capabilities of streets serving the property.

G. The planning commission and city staff shall have the authority to request additional information from the applicant concerning operational

factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

H. The applicant or a representative thereof shall appear before the planning commission in order to answer questions concerning the proposed request.

I. The planning commission shall recommend approval or denial of the request.

J. The city council shall not act upon an amendment until they have received a report and recommendation from the planning commission or until sixty (60) days after the first regular planning commission meeting at which the request was considered.

K. Upon receiving the report and recommendation of the planning commission, the city administrator shall place the report and recommendation on the agenda for the next regular city council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the city council meeting.

L. Upon receiving the report and recommendation of the planning commission and the city staff, the city council shall have the option to set and hold a public hearing if deemed necessary.

M. If, upon receiving said reports and recommendations of the planning commission, the city council finds that specific inconsistencies exist in the review process and thus the final recommendation of the city council will differ from that of the planning commission, the city council may, before taking final action, refer the matter back to the planning commission for further consideration. The city council shall provide the planning commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

N. Approval of a request for an amendment (text or map) shall require passage by a majority vote of the city council, except approval of a request for an amendment which changes all or part of an existing residential zoning district classification to either a commercial or industrial district shall require passage by a four-fifths ($^4/_5$) vote of the entire city council.

O. The amendment shall not become effective until such time as the city council approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper.

P. Whenever an application for an amendment has been considered and denied by the city council, a similar application and proposal for the amendment affecting either a portion or all of the same property shall not be considered again by the planning commission or city council for at least one year from the date of its denial, except as follows:

1. Applications are withdrawn prior to the city council taking action on the matter.

2. If the city council determines that the circumstances surrounding a previous application have changed significantly.

3. If the city council decides to reconsider such matter by a four-fifths ($^4/_5$) vote of the entire city council. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-3, 3-4-1996; 2005 Code; Ord. 2009-012, 4-6-2009)

300.2: AMENDMENTS INITIATION:
The city council or planning commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this ordinance. The procedural requirements of subsections 300.1A and B of this chapter shall not apply to such proposed amendments except to the extent required by state statute. Any person owning real estate or having documented interest therein, within the city, may initiate a request to amend the district and map boundaries or text of this ordinance so as to affect the said real estate. (Ord. 1988-12, 12-19-1988)

CHAPTER 400

ADMINISTRATION - CONDITIONAL USE PERMITS

SECTION:

400.1: Purpose

400.2: Procedure

400.3: Application

400.4: Information Requirement

400.5: Lapse Of Conditional Use Permit By Nonuse

400.6: Performance Security

400.7: Conditional Use Permit Initiation

400.8: Conditional Use Permit Revocation

400.1: PURPOSE:
The purpose of a conditional use permit is to provide the city with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the city may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or further factors as the city shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety. (Ord. 1988-12, 12-19-1988)

400.2: PROCEDURE:
A. Request for conditional use permits, as provided within this ordinance, shall be filed with the zoning administrator on an official application form. Such application shall be accompanied by a fee established by section 3-1-3 of the city code. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of property owners located within three hundred fifty feet (350') of the subject property obtained from and certified by Wright County or the city. The request for conditional use permit shall be placed on the agenda of the first possible planning commission meeting occurring twenty one (21) days from the date of submission of the application. The request shall be considered as being officially submitted when all the information requirements are complied with.

B. The applicant shall supply proof of title and the legal description of the property for which the conditional use permit is requested, consisting of an abstract of title or registered property abstract currently certified, together with any unrecorded documents whereby the petitioners acquire a legal

ownership or equitable ownership interest, or supply written authorization from the owner(s) of the property in question to proceed with the requested conditional use permit.

C. Upon receipt of said application, the zoning administrator shall set a public hearing following proper hearing notification. The planning commission shall conduct the hearing and report its findings and make recommendations to the city council. Notice of said hearing shall consist of a legal property description and description of request, and shall be published in the official newspaper at least ten (10) days prior to the hearing, and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty feet (350') of the boundary of the property in question.

D. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this ordinance.

E. The zoning administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the city council.

F. The planning commission and city council shall consider possible adverse effects of the proposed conditional use. Their judgment shall be based upon (but not limited to) the following factors:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official city comprehensive plan.

2. The proposed use is or will be compatible with present and future uses of the area.

3. The proposed use conforms with all performance standards contained herein.

4. The proposed use will not tend to or actually depreciate the area in which it is proposed.

5. The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.

6. Traffic generated by the proposed use is within capabilities of streets serving the property.

G. The planning commission and city staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

H. The applicant or a representative thereof shall appear before the planning commission in order to answer questions concerning the proposed request.

I. The planning commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this ordinance.

J. The city council shall not grant a conditional use permit until they have received a report and recommendation from the planning commission or until sixty (60) days after the first regular planning commission meeting at which the request was considered.

K. Upon receiving the report and recommendation of the planning commission, the city administrator shall place the report and recommendation on the agenda for the next regular city council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the city council meeting.

L. Upon receiving the report and recommendation of the planning commission, the city council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact and may impose any condition it considers necessary to protect the public health, safety and welfare.

M. If, upon receiving said reports and recommendations of the planning commission, the city council finds that specific inconsistencies exist in the review process and thus the final recommendation of the city council will differ from that of the planning commission, the city council may, before taking final action, refer the matter back to the planning commission for further consideration. The city council shall provide the planning commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

N. Approval of a request for a conditional use permit shall require passage by a majority vote of the city council.

O. Whenever an application for a conditional use permit has been considered and denied by the city council, a similar application and proposal for a conditional use permit affecting either a portion or all of the same property shall not be considered again by the planning commission or city council for at least one year from the date of its denial, except as follows:

1. Applications are withdrawn prior to the city council taking action on the matter.

2. If the city council determines that the circumstances surrounding a previous application have changed significantly.

3. If the city council decides to reconsider such matter by a four-fifths ($^4/_5$) vote of the entire city council.

P. If a request for a conditional use permit receives approval of the city council, the applicant shall record such with the county registrar of titles. The applicant, immediately upon recording such or as soon as is reasonably possible, shall furnish the city proof of recording. No building permits for the property in question will be granted until such proof of recording is furnished to the city. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-3, 3-4-1996; 2005 Code; Ord. 2009-012, 4-6-2009)

400.3: APPLICATION:
The conditional use permit and the stipulations and limitations imposed therein shall be applied to the property in question. The city, if so stated in formal action, may also apply the stipulations and limitations:

A. To the property in question, limited to the present owner.

B. To the property in question, for a specified time period. (Ord. 1988-12, 12-19-1988)

400.4: INFORMATION REQUIREMENT:
The information required for all conditional use permit applications generally consists of the following items, and shall be submitted when requested by the city:

A. Site Development Plan:

1. A certificate of survey locating all buildings on lots including both existing and proposed structures.

2. Location of all adjacent buildings located within three hundred fifty feet (350') of the exterior boundaries of the property in question.

3. Location and number of existing and proposed parking spaces.

4. Vehicular circulation.

5. Architectural elevations (type and materials used in all external surface).

6. Location and type of all proposed lights.

7. Curb cuts, driveways, number of parking spaces.

B. Dimension Plan:

1. Lot dimensions and area.

2. Dimensions of proposed and existing structures.

3. "Typical" floor plan and "typical" room plan.

4. Setbacks of all buildings located on the property in question.

5. Proposed setbacks.

C. Sanitary Sewer And Water Plan: With estimated use per day.

D. Grading Plan:

1. Existing contours.

2. Proposed grading elevations.

3. Drainage configuration.

4. Storm sewer catch basins and invert elevations.

5. Spot elevations.

6. Proposed road profile.

E. Landscape Plan:

1. Location of all existing trees, type, diameter, and which trees will be removed.

2. Location, type and diameter of all proposed plantings.

3. Location and material used for all screening devices.

F. Legal Description: Legal description of property under consideration.

G. Ownership Of Land: Proof of ownership of the land for which a conditional use permit is requested. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

400.5: LAPSE OF CONDITIONAL USE PERMIT BY NONUSE:
Whenever, within one year after granting a conditional use permit, the use as allowed by the permit shall not have been initiated or utilized, then such permit shall become null and void, unless a petition is filed for an extension of time in which to complete or utilize the use that was approved by the city council. Such extension shall be requested in writing and filed with the zoning administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the planning commission for a recommendation and to the city council for a decision. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

400.6: PERFORMANCE SECURITY:
A. Except in the case of nonincome producing residential property (excluding relocated structures), upon approval of a conditional use permit, the city shall be provided, where deemed necessary, with an irrevocable letter of credit, surety bond, cash escrow, certificate of deposit payable to the city, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be noncancelable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the city.

B. The security shall be in the amount equal to one hundred twenty five percent (125%) of the city engineer's or city building official's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the city engineer and building official.

C. The city shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and regulations of the city has been issued by the city building official.

D. Failure to comply with the conditions of the conditional use permit or the regulations of the city shall result in forfeiture of the security. (Ord. 1988-12, 12-19-1988)

400.7: CONDITIONAL USE PERMIT INITIATION:
The city council or planning commission may, upon their own motion, initiate a request for a conditional use permit in conformance with the provisions of this ordinance. Any person owning real estate or having documented interest therein, within the city, may initiate a request for a conditional use permit for real estate in conformance with the provisions of this title. (Ord. 1988-12, 12-19-1988)

400.8: CONDITIONAL USE PERMIT REVOCATION:
If a conditional use permit is in violation of this ordinance or conditions of permit approval, the city may initiate a process to revoke the conditional use permit involving the following steps:

A. Written notice of violation to the property owner citing the violation and time frame to correct violations. If the conditional use permit was issued to a person other than the owner, the city shall also provide notice to such other person at the last known address for such person as contained in the city's files.

B. If violations are not corrected within the stated time frame, the city will notify the property owner and conditional use permit holder and publish a public hearing notice for a public hearing to consider revocation of the conditional use permit. Notification of the public hearing shall be published in the official newspaper at least ten (10) days prior to the hearing, and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty feet (350') of the boundary of the property in question.

C. City staff shall prepare a report outlining the terms of approval, violations, and findings for the conditional use permit revocation.

D. A public hearing may be held by either the planning commission or city council. If a public hearing is held by the planning commission, the planning commission shall provide findings and recommendation for action to the city council within ten (10) days of the commencement of the public hearing. If no such recommendation is forthcoming within the ten (10) day period, the city council may act without the recommendation of the planning commission.

E. If the city council holds a public hearing, the city council shall review the city staff report(s), take testimony from the property owner, and public testimony, and make a decision on the conditional use permit revocation.

F. Following a vote by the city council to revoke the conditional use permit, the city shall file a certified copy thereof including a legal description of the property with the county recorder and/or registrar of titles and shall mail notice of its decision to the property owner and holder of the conditional use permit.

G. If the conditional use permit is revoked any unfinished portions of the conditional use permit improvements shall be removed and returned to the preapproval conditions. Finished improvements may remain but shall only be used in accordance with city ordinances. Violations of this provision will be subject to code enforcement as outlined in title 1, chapter 6 of the city code. (Ord. 2016-09, 8-15-2016)

CHAPTER 500

ADMINISTRATION - VARIANCES

SECTION:

500.1: General Provisions And Standards

500.2: Procedures

500.3: Denial Of Variance; Time Constraint On Refiling

500.4: Lapse Of Variance

500.5: Performance Security

500.1: GENERAL PROVISIONS AND STANDARDS:

A. Purpose: The purpose of this chapter is to provide for deviations from the literal provisions of this ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this ordinance.

B. Criteria For Granting Variances: The planning commission shall hear and the city council serving, as the board of adjustments and appeals, shall make findings of fact that the proposed variance from the literal provisions of this chapter be granted or denied pursuant to the requirements of Minnesota statutes section 462.357 and any amendments thereto, which include, but are not limited to, the following considerations:

1. Variances shall only be permitted when they are in harmony with the general purpose and intent of city code and consistent with the comprehensive plan.

2. Variances may only be permitted when the applicant establishes that there are noneconomic practical difficulties in complying with the zoning ordinance, meaning the property owner proposes to use the lot or parcel in a reasonable manner not permitted by the zoning code.

3. The plight of the property owner must be due to circumstances that are unique to the lot or parcel and is not created by the property owner.

4. The variances must not alter the essential character of the locality including all zoning district and overlay district provisions.

5. The board of adjustments and appeals shall have the sole discretion to consider whether any variance request meets the criteria herein.

6. The request is not a use variance.

7. Variance requested is the minimum variance necessary to accomplish the use of the property in a reasonable manner.

C. Application For Variance: Application for a variance shall set forth reasons that the variance is justified in order to make reasonable use of the land, structure or building.

D. Council May Grant Variance; Planning Commission To Advise And Recommend Conditions: Should the council find that the conditions outlined heretofore apply to the proposed lot or parcel, the council may grant a variance from the strict application of this ordinance so as to relieve such practical difficulties to the degree considered reasonable, provided such relief may be granted without impairing the intent of this ordinance. The planning commission, in the case of major variance, based upon a report and recommendation by the city staff, shall have the power to advise and recommend such conditions related to the variance regarding the location, character and other features of the proposed building, structure, or use as it may deem advisable in the interest of the intent and purpose of this ordinance. (Ord. 1988-12, 12-19-1988; amd. 2005 Code; Ord. 2015-01, 2-17-2015)

500.2: PROCEDURES:

A. Minor Variances:

1. Purpose: The purpose of this subsection is to provide for an expeditious method of processing variance requests.

2. Qualifications: Requests qualifying as minor variances must meet one of the following criteria:

a. Cases where hardship to existing buildings or platted property are created as a result of public action or change in city code standards (exception: shoreland and wetland regulations).

b. Structure or setback deviations which are characteristic of and common to neighboring uses and which do not exceed five feet (5').

3. Processing:

a. Requests for a minor variance shall be filed with the zoning administrator on an official application form. Such application shall be accompanied by a fee established by section 3-1-3 of the city code. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials necessary for the explanation of the request.

b. The zoning administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate and provide general assistance in preparing a recommendation on the action to the council.

c. The city shall have the authority to request additional information from the applicant concerning operational factors or to retain expert

testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this ordinance. Failure of any applicant to supply all necessary supportive information may be grounds for denial of the request.

d. The council shall review the application and may, upon its option, conduct a public hearing (no notice or publication required) on the request. The city council may also make a determination and require that the matter be processed as a major variance.

e. The applicant or a representative shall appear before the council in order to answer questions concerning the proposed variance request.

f. The council shall make findings of fact and shall decide whether to approve or deny a request for variance within forty (40) days after the public hearing on said request or forty (40) days after the date at which the matter was first considered.

g. A variance of this ordinance shall be granted by amajority vote of the council.

h. All decisions by the council involving a variance request shall be final; except, that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Wright County district court.

i. If a request for variance receives approval of the city council, the applicant shall record such with the county registrar of titles. The applicant, immediately upon recording such, or as soon as reasonably possible, shall furnish the city proof of recording. No building permits for the property in question will be granted until such proof of recording is furnished to the city.

B. Major Variances:

1. Classification: All variances which are not classified as "minor" shall be deemed "major" variances.

2. Processing:

a. Request for variance, as provided within this ordinance, shall be filed with the zoning administrator on an official application form. Such application shall be accompanied by a fee established by section 3-1-3 of the city code. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of property owners located within three hundred fifty feet (350') of the subject property obtained from and certified by Wright County or the city. The request for variance shall be placed on the agenda of the first possible planning commission meeting occurring after twenty one (21) days from the date of submission. The request shall be considered as being officially submitted when all the information requirements are complied with.

b. Upon receipt of said application, the zoning administrator shall set a public hearing following proper hearing notification. The planning commission shall conduct the hearing and report its findings and make recommendations to the city council. Notice of said hearing shall consist of a legal property description of the request, and be published in the official newspaper at least ten (10) days prior to the hearing, and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty feet (350') of the boundary of the property in question.

c. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this ordinance.

d. The zoning administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the council.

e. The planning commission and city staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this ordinance. Failure of an applicant to supply all necessary supportive information may be grounds for denial of the request.

f. The applicant or representative thereof shall appear before the planning commission to answer questions concerning the proposed variance.

g. The planning commission shall make findings of fact and recommend approval or denial of the request. The planning commission shall reach a decision within sixty (60) days after the first regular meeting at which the variance request was considered by the commission. The commission's recommendation and the city staff's report shall be presented to the council.

h. The city council shall not grant a variance until they have received a report and recommendation from the planning commission or until sixty (60) days after the first regular planning commission meeting at which the request was considered.

i. Upon receiving the report and recommendation of the planning commission, the city administrator shall place the report and recommendation on the agenda for the next regular city council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the city council meeting.

j. The council shall review the application and may, at its option, conduct a public hearing on the request.

k. The council shall make findings of fact and approve or deny a request for variance within sixty (60) days after receipt of the planning commission's recommendation.

l. A variance of this ordinance shall be granted by a majority vote of the council.

m. All decisions by the council involving a variance request shall be final; except, that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Wright County district court. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-3, 3-4-1996; 2005 Code; Ord. 2009-005, 3-2-2009)

500.3: DENIAL OF VARIANCE; TIME CONSTRAINT ON REFILING:

A. Whenever an application for a major or minor variance has been considered and denied by the city council, a similar application and proposal for a variance affecting either a portion or all of the same property shall not be considered again by the planning commission or city council for at least one year from the date of its denial, except as follows:

1. Applications are withdrawn prior to the city council taking action on the matter.

2. If the city council determines that the circumstances surrounding a previous application have changed significantly.

3. If the city council decides to reconsider such matter by a four-fifths ($^4/_5$) vote of the entire city council.

B. If a request for variance receives approval of the city council, the applicant shall record such with the county registrar of titles. The applicant, immediately upon recording such, or as soon as reasonably possible, shall furnish the city proof of recording. No building permits for the property in question will be granted until such proof of recording is furnished to the city. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-3, 3-4-1996; 2005 Code)

500.4: LAPSE OF VARIANCE:

If, within one year after granting a variance, the use as allowed by the variance shall not have been initiated or utilized, then such a variance shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the council. Such extension shall be requested in writing and filed with the zoning administrator at least thirty (30) days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or use the approved variance appeal. Such petition shall be presented to the council for decision. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

500.5: PERFORMANCE SECURITY:

A. Upon approval of a variance, the city shall be provided, where deemed necessary by the council, with an irrevocable letter of credit, surety bond, cash escrow, certificate of deposit payable to the city, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance and city regulations.

B. The security shall be in the amount equal to one hundred twenty five percent (125%) of the city engineer's or building official's estimated costs of labor and materials for the proposed improvements or development.

C. The city shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance and city regulations has been issued by the building official.

D. Failure to comply with the conditions of the variance and city regulations shall result in forfeiture of the security.

E. Whenever a performance guarantee is imposed by the city, the applicant shall be required to enter into a performance agreement with the city. This agreement is to provide authorization to the city to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the variance or city regulations. Said agreement shall hold harmless the city for completion of the work and address other matters as may be determined by the city attorney. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

CHAPTER 600

ADMINISTRATION - APPEALS

SECTION:

600.1: Board Designation

600.2: Approval

600.3: Filing

600.4: Procedure

600.5: Appeal

600.1: BOARD DESIGNATION:

The city council shall serve as the board of adjustment and appeals. (Ord. 1988-12, 12-19-1988)

600.2: APPROVAL:

A majority vote of four-fifths ($^4/_5$) of the full board of adjustment and appeals shall be required to reverse any decision of an administrative officer in the interpretation of this ordinance. (Ord. 1988-12, 12-19-1988)

600.3: FILING:

An appeal from the ruling of an administrative officer of the city shall be made by the property owner or his agent within thirty (30) days after the making of the order appealed from. (Ord. 1988-12, 12-19-1988)

600.4: PROCEDURE:

The procedure for making such an appeal shall be as follows:

A. The property owner or his agent shall file with the zoning administrator a notice of appeal stating the specific grounds upon which the appeal is made.

B. The board of adjustment and appeals shall make its decision by resolution within sixty (60) days, and a copy of the resolution shall be mailed to the applicant by the zoning administrator. (Ord. 1988-12, 12-19-1988)

600.5: APPEAL:

All decisions by the board of adjustment and appeals shall be final; except, that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision with the Wright County district court. (Ord. 1988-12, 12-19-1988)

CHAPTER 700

ADMINISTRATION - CERTIFICATE OF OCCUPANCY OF ZONING [1]

SECTION:

700.1: Certificate Required

700.2: Application

Notes

[1] 1. See also section 10-1-1 of the city code.

700.1: CERTIFICATE REQUIRED:

Except for farm buildings, no building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved, shall be occupied or used, in whole or in part, for any purpose whatsoever until a certificate of occupancy of zoning shall have been issued by the

building official stating that the building or structure complies with all of the provisions within this ordinance and applicable state building code sections. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

700.2: APPLICATION:
Said certificate shall be applied for coincident with the application for a building permit, conditional use permit, and/or variance and shall be issued within ten (10) days after the building official shall have found the building or structure satisfactory and given final inspection. Said application shall be accompanied by a fee established by section 3-1-3 of the city code. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

CHAPTER 800

ADMINISTRATION - ENFORCEMENT AND PENALTIES

SECTION:

800.1: Enforcement

800.2: Violation

800.1: ENFORCEMENT:
This ordinance shall be administered and enforced by the zoning administrator who is appointed by the city council. The zoning administrator may institute in the name of the city any appropriate actions or proceedings against a violator as provided by statute, ordinance or regulation. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

800.2: VIOLATION:
Any person who violates any of the provisions of this ordinance shall be found guilty of a misdemeanor and shall, upon conviction, be charged pursuant to section 3-1-3 of the city code. Each day that a violation exists shall constitute a separate offense. (Ord. 2017-01, 1-3-2017; amd. Ord. 2019-13, 12-16-2019)

CHAPTER 900

NONCONFORMING BUILDINGS, STRUCTURES AND USES

SECTION:

900.1: Purpose

900.2: Provisions

900.1: PURPOSE:
It is the purpose of this chapter to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures and uses will be operated and maintained. This ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are allowed in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be allowed to continue without restriction. Furthermore, it is the intent of this chapter that all nonconforming uses shall be eventually brought into conformity. (Ord. 1988-12, 12-19-1988)

900.2: PROVISIONS:

A. Except as provided in this section, any nonconforming structure or use lawfully existing upon the effective date hereof shall not be enlarged or reconstructed, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or subsequently amended.

B. Any proposed structure which will, under this ordinance, become nonconforming but for which a building permit has been lawfully granted prior to the effective date hereof may be completed in accordance with the approved plans, provided construction is started within sixty (60) days of said effective date, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure and use shall thereafter be a legally nonconforming structure and use.

C. Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not physically extend or intensify the nonconforming use.

D. Alterations may be made to a building containing lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building. A dwelling may not, however, be demolished and a new dwelling constructed unless the new dwelling is in full compliance with this ordinance.

E. Nonconforming, single-family dwelling units and developed substandard single-family lots may be expanded to improve livability if approved by the zoning administrator; provided, that the nonconformity is not increased and no other ordinance deviations are created.

F. Nothing in this ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the building official, provided the necessary repairs shall not constitute more than fifty percent (50%) of the fair market value of each structure. Said value shall be determined by the city.

G. No nonconforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the effective date hereof unless such movement shall bring the nonconformance into substantially closer compliance with the requirements of this ordinance.

H. When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

I. A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

J. If at any time, a nonconforming building, structure or use shall be destroyed to the extent of more than fifty percent (50%) of its fair market value, said value to be determined by the city, it may be reestablished to its prior size and form, but not expanded, if the property owner applies for a building permit within one hundred eighty (180) days of the damage event. If no building permit is applied for within the specified time period, then, without further action by the council, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by this ordinance for the district in which such land and buildings are located. Any

building which is damaged to an extent of less than fifty percent (50%) of its fair market value may be restored to its former extent if it is reconstructed within twelve (12) months after the date of said damage. Estimate of the extent of damage or destruction shall be made by the building official.

K. Whenever a lawful nonconforming use of a structure or land is discontinued for a period of one year, any future use of said structure or land shall be made to conform with the provisions of this ordinance.

L. Any lawful nonconforming use of land not involving a structure, and any lawful nonconforming use involving a building or structure with an assessed valuation upon the effective date hereof of five thousand dollars ($5,000.00) or less, may be continued until January 1, 1994, whereupon, such nonconforming use shall cease. (Ord. 1988-12, 12-19-1988; amd. 2005 Code; Ord. 2011-001, 2-7-2011)

CHAPTER 1000

GENERAL BUILDING AND PERFORMANCE REQUIREMENTS

SECTION:

1000.1: Purpose

1000.2: Dwelling Unit Restriction

1000.3: Platted And Unplatted Property

1000.4: Accessory Buildings, Uses And Equipment

1000.5: Swimming Pools And Hot Tubs

1000.6: Fences

1000.7: Required Fencing, Screening, And Landscaping

1000.8: Traffic Visibility

1000.9: Drainage Plans

1000.10: Outdoor Lighting

1000.11: Smoke (Rep. by Ord. 2009-002, 2-2-2009)

1000.12: Dust And Other Particulated Matter (Rep. by Ord. 2009-002, 2-2-2009)

1000.13: Odors (Rep. by Ord. 2009-002, 2-2-2009)

1000.14: Refuse Receptacles; Location And Screening

1000.15: Outside Storage, Residential, Commercial And Industrial Uses

1000.16: Sewage Disposal

1000.17: Waste Material

1000.18: Bulk Storage (Liquid)

1000.19: Radiation Emission (Rep. by Ord. 2009-002, 2-2-2009)

1000.20: Electrical Emission (Rep. by Ord. 2009-002, 2-2-2009)

1000.21: Fire Hydrants

1000.22: Temporary Outdoor Seasonal Sales

1000.23: Two-Family, Townhouse, Quadraminium, Multiple-Family Uses

1000.24: Opt Out Of Minnesota Statutes Section 462.3593

1000.25: Solar Energy Systems

1000.1: PURPOSE:

The purpose of this chapter is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the city. (Ord. 1988-12, 12-19-1988)

1000.2: DWELLING UNIT RESTRICTION:

A. No garage, tent, accessory building or travel trailer shall at any time be used as living quarters, temporarily or permanently, except recreational vehicles as follows:

1. Structures: Temporary structures governed by this chapter shall be allowed in public/institutional (P/I) or commercial (B) zoning districts subject to the issuance of an administrative permit.

2. Site Plan Required: No administrative permit shall be issued for a temporary structure unless a site plan pursuant to chapter 1500 of this ordinance has also been approved, if applicable, or unless a building permit has been issued for a new structure, addition or remodeling of an existing structure on the property.

3. Termination Of Permit: The administrative permit shall terminate nine (9) months from its date of issuance, or within thirty (30) days after a certificate of occupancy has been issued by the building official for the permanent structure, whichever occurs first, unless a different time schedule is approved as part of the permit. The permit may be extended for one additional ninety (90) day period by the zoning administrator. Only one permit event per property per five (5) year period shall be allowed.

4. Setback: Temporary structures may be placed in a required building setback area; provided, that no such structure may be placed within twenty feet (20') of a public right of way or obstruct visibility at any street intersection or driveway access.

5. State Building Code: All requirements of the state building code[1] shall be met, if applicable.

6. Water And Sewer: Provisions for water and sewer servicing the temporary structures shall be subject to the review and approval of the building official.

7. Security Measures: Security measures such as lighting shall be implemented subject to the review and approval of the zoning administrator.

8. Parking: Adequate on site parking provisions shall be provided and are subject to the review and approval of the zoning administrator.

9. Signage: Signage is subject to the provisions of title 10, chapter 7 of the city code.

B. Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling. Energy conserving designs in housing are not prohibited by this subsection; provided, that a conditional use permit is approved by the council, and the structure complies with standards imposed by the state building code [2] .

C. Tents, playhouses or similar structures may be used only for play or recreational purposes.

D. No accessory building or structure, other than a fence or temporary construction office, may be constructed prior to the time of construction of the principal building or structure. (Ord. 1988-12, 12-19-1988; amd. Ord. 2002-4, 3-4-2002; 2005 Code)

Notes

1 1. See section 10-2-1 of the city code.

2 2. See section 10-2-1 of the city code.

1000.3: PLATTED AND UNPLATTED PROPERTY:

A. Any person desiring to improve property shall submit to the building official a certificate of survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information which may be necessary to ensure conformance to city regulations.

B. All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the city in conformity with existing streets and according to the system and standards employed by the city. The zoning administrator shall approve all such site plans prior to the issuance of a building permit.

C. Except in the case of properties where sanitary sewer has not previously been provided to the lot, a lot of record existing upon the effective date hereof in a residential district, which does not meet the requirements of this ordinance as to area or width, may be utilized for single-family detached dwelling purposes, provided the measurements of such area or width are within seventy percent (70%) of the requirements of this ordinance. This chapter is not intended to allow reduction in setbacks and required yards.

D. Except in the case of planned unit developments as provided for in chapter 2700 of this ordinance, not more than one principal building shall be located on a lot. The words "principal building" shall be given their common, ordinary meaning as defined in chapter 200 of this ordinance.

E. On a through lot (a lot fronting on 2 parallel streets), both street lines shall be front lot lines for applying the yard and parking setback regulations of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-24, 11-3-2003)

1000.4: ACCESSORY BUILDINGS, USES AND EQUIPMENT:

A. Farm Operations Exempt: Farm operations are exempt from the requirements of this section.

B. Single-Family Accessory Uses:

1. Setbacks:

a. Front Yard: No accessory use, building, structure, or equipment shall be allowed within a required front yard, except by conditional use permit.

b. Side Yard: As required by zoning district.

c. Rear Yard (Includes Side Yard Within Rear Yard): Allowed to encroach into the required setback, but not less than ten feet (10').

d. Alley: Private garages having direct access onto an alley shall be set back twenty feet (20') from the alley lot line.

e. Encroachment: No accessory building may encroach on a required easement or in a required side yard setback abutting a street on a corner lot.

2. Size:

a. Minimum Size: An attached or a detached garage shall not be less than five hundred thirty (530) square feet in floor area.

b. Maximum Size: An attached or a detached garage shall not:

(1) Exceed one thousand (1,000) square feet of floor area, except by conditional use permit;

(2) Exceed the ground coverage of the dwelling, except by conditional use permit;

(3) Occupy more than twenty five percent (25%) of the area of the rear yard; or

(4) A second accessory storage building may not exceed one hundred fifty (150) square feet in floor area, when accompanied by an attached garage on the same lot, except by conditional use permit.

c. Cumulative Area: The total floor area of all accessory buildings and garages shall not exceed one thousand one hundred fifty (1,150) square feet, except by conditional use permit.

3. Size Exception: An exception to the size requirements may be granted through an administrative permit, provided the following requirements are met:

a. The parcel is one acre or greater in size;

b. Any accessory building does not exceed the ground coverage of the dwelling;

c. Any accessory building shall be screened from adjacent residential property;

d. Any accessory building shall be constructed of the same or similar design and material as the principal building; and

e. Commercial and home occupation uses are prohibited in any accessory building.

4. Number:

a. Storage Buildings Or Garages: No more than two (2) accessory storage buildings or garages shall be allowed on one or more single-family lots under common ownership.

b. Exception: An exception for a third accessory building may be granted, provided the following requirements are met:

(1) Third accessory structure qualifies as an "outdoor living space", as defined in section 200.2 of this ordinance; and

(2) The cumulative floor area of all three (3) accessory structures does not exceed the maximum allowed floor area (1,150 square feet).

C. Commercial Accessory Uses:

1. Setbacks: All commercial accessory buildings shall meet the setbacks of the principal building.

2. Size: All commercial accessory buildings shall not exceed thirty percent (30%) of the gross floor space of the principal building.

3. Number: No more than one accessory building shall be allowed on any commercially zoned property, except by conditional use permit.

4. Exterior: Accessory buildings shall match the exterior finish of the principal building in color and materials.

D. Multi-Family, Agricultural, And Industrial Accessory Uses: Except as otherwise noted, all accessory buildings and uses for all principal uses (other than single-family detached dwellings) shall conform to the setback requirements specified for the respective zoning district in which they are located.

E. Height Limits: Except as expressly allowed by conditional use permit, accessory buildings shall comply with the following height limitations:

1. Maximum Heights:

Zoning District	**Maximum Height**
Zoning District	**Maximum Height**
A-1	16 feet
A-2	16 feet
R-1	16 feet
R-1A	16 feet
R-2	16 feet
R-3	16 feet
R-4	16 feet
R-5	16 feet
R-6	16 feet
R-7	16 feet
R-8	25 feet
R-MH	15 feet
B-2	35 feet
B-2A	35 feet
B-3	35 feet
B-4	35 feet
B-W	35 feet
I-1	35 feet
I-2	35 feet
P/I	35 feet

2. Exception: Accessory buildings other than garages shall be limited to ten feet (10') in height on all two-family, quadraminium, or townhouse unit lots.

F. Building Type And Standards:

1. The same or similar quality "exterior building material" (meaning exterior finish and color) shall be used in the accessory building and in the principal building.

2. All accessory buildings shall also be compatible with the principal building on the lot. "Compatible" means that the exterior appearance of the accessory building is not different from the principal building from an aesthetic and architectural standpoint, as to cause:

a. A difference to a degree to cause incongruity, as determined by the city council; or

b. A depreciation of neighborhood or adjacent property values.

3. "Pole buildings", as defined in section 200.2 of this ordinance:

a. Are prohibited in residential and commercial districts.

b. Are permitted within the A-1 and A-2 districts, only in association with agricultural operations.

c. Are allowed in industrial districts as a conditional use; provided, the following are met:

(1) The structure involves an expansion of an existing pole building;

(2) The design and building material conform to the character of the area in which the structure is located;

(3) There is documented need for this type of construction; and

(4) The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

G. Noisy Uses And Equipment In Side Yards: No accessory uses or equipment, such as air conditioning units or condensers, which generate

noise, may be located in a side yard, except for side yards abutting streets where equipment is fully screened from view.

H. Conditional Use Permits: Application for a conditional use permit under this section shall be regulated by chapter 400 of this ordinance. Such a conditional use permit may be granted; provided the following are met:

1. There is a demonstrated need and potential for a continued use of the structure and the purpose stated.

2. The building has an evident reuse or function related to the principal use.

3. Accessory building shall be maintained in a manner that is compatible with the adjacent residential uses and does not present a hazard to public health, safety, and general welfare.

4. For conditional uses for accessory buildings exceeding one thousand (1,000) square feet in floor area in the R-1A, R-1, R-2, R-3, or R-4 zoning districts, the accessory building shall not exceed the area footprint of the principal building or ten percent (10%) of the minimum lot area of the respective zoning district.

5. For conditional uses for a second accessory building exceeding one hundred fifty (150) square feet in floor area in the R-1A, R-1, R-2, R-3, or R-4 zoning districts, the accessory building shall not occupy more than twenty five percent (25%) of a rear yard and/or the cumulative floor area of all accessory buildings on the lot and shall not exceed ten percent (10%) of the minimum lot area standard of the respective district.

6. For conditional uses exceeding the maximum accumulative floor area of one thousand one hundred fifty (1,150) square feet for accessory buildings in the R-1A, R-1, R-2, R-3, or R-4 zoning districts, the accumulative accessory floor area shall be capped at ten percent (10%) of the minimum lot area requirement of the respective district.

7. For conditional uses for accessory buildings that exceed the size requirements of this section the use shall not be granted if the lot meets the following conditions:

a. The lot shares a rear or side lot line with Cedar Creek Golf Course.

b. The lot is part of a subdivision approved as a planned unit development and granted flexibility for a reduced lot size.

c. Any substandard residential lot that falls below the minimum lot area standard of its respective zoning district.

8. Any accessory buildings must meet the required accessory building setbacks.

9. The provisions of subsection 400.2F of this ordinance shall be considered and a determination made that the proposed activities are in compliance with such criteria. (Ord. 2009-006, 3-16-2009; amd. Ord. 2016-10, 12-5-2016)

1000.5: SWIMMING POOLS AND HOT TUBS:

A. Permit Required: A building permit shall be required for any swimming pool that is over twenty four inches (24") in height or depth, measured from ground level. This includes inground swimming pools, aboveground pools, on ground swimming pools and fixed in place wading pools.

B. Application For Permit: An application for the construction of swimming pools shall be on a city application form and accompanied by a fee established in section 3-1-3 of the city code. The permit application shall include:

1. Site Plan: Site plan, illustrating:

a. Type and size of pool.

b. Location of the pool on the lot.

c. Location of other buildings and structures on the lot.

d. Location of structures on adjoining lots.

e. Location of filter and heating units.

f. Location of pumps and wiring.

g. Location of back flush and drain outlets.

h. Location of any overhead or underground utilities or utility easements.

i. Fence locations.

2. Building Plans:

a. Swimming pool design.

b. Fencing and gate details.

c. Deck or surfacing details.

C. Single-Family Or Two-Family Dwelling Pools:

1. Setbacks And Location Standards:

a. Pools shall not be located in front of the principal building.

b. Pools shall not be located in the required side yard of any zoning district.

c. Pools shall not be located closer than ten feet (10') of the rear property line.

d. The filter unit, pump heating unit, and any noisemaking mechanical equipment shall be located not closer than twenty feet (20') to any lot line or ten feet (10') from any lot line if located within an insulated building to buffer noise.

e. Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.

f. Pools shall not be located within any private or public utility, walkway, drainage or other easement.

g. Pools shall be set back at least six feet (6') from the principal building or frost footing.

2. Lighting: Lighting for the pool shall be designed with a ninety degree (90°) cutoff and hooded to direct lighting toward the pool and not toward adjacent property.

3. Fences or Enclosures To Restrict Access: All swimming pools for which a building permit is required shall be provided with safeguards to

prevent children from gaining uncontrolled access. This can be accomplished with fencing, barrier, or other enclosure, or any combination thereof, of sufficient density as to be impenetrable.

a. Inground Pools: Inground pools shall require a fence surrounding the pool area measuring at least five feet (5') in height. Fences shall be constructed of a noncorrosive material and shall not be easily climbable (chain link fences must be vinyl coated with slats for screening). Fences should be constructed to have minimal handholds and footholds. The size of openings within the fence should be minimized. The bottom of the fence shall not allow more than four inches (4") clearance from the ground. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pool areas shall be equipped with self-closing and self-latching devices where the release mechanism of the device is placed at a minimum height of forty-eight inches (48") from the bottom of the gate on a five-foot (5') fence.

b. Above Ground Pools: Above ground pools shall require a fence surrounding the pool area at least four feet (4') in height for above ground pools with sidewalls between twenty- four inches (24") and no more than forty-eight inches (48") in height. The above ground pool structure itself may serve as a barrier if the top of the pool measures at least forty-eight inches (48") above grade and does not require a fence, provided that safeguards are in place with a locking mechanism to be inaccessible to all small children. Safeguards may include a ladder or steps designed to be secured, locked, or removed to prevent access, or the entry point may be surrounded by a barrier such as those described in these guidelines. Fences shall be constructed of a noncorrosive material and shall not be easily climbable (chain link fences must be vinyl coated with slats for screening). Fences should be constructed to have minimal handholds and footholds. The size of openings within the fence should be minimized. The bottom of the fence shall not allow more than four inches (4") clearance from the ground. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pool areas shall be equipped with self-closing and self-latching devices where the release mechanism of the device is and placed at a minimum height of forty-two inches (42") from the bottom of the gate on a four-foot (4') fence as described above, so as to be inaccessible to all small children. Prior to filling the pool, the approved fence and/or barrier must be completely in place and inspected and approved by the city building official.

c. Swimming pool fences shall comply with fence setback standards of section1000.6 of this chapter.

d. Required structure or safety fencing shall be completely installed within three (3) weeks following the installation of the pool, before any water is allowed in the pool, and prior to final inspection.

4. Water Quality/Drainage:

a. Water in the pool shall be maintained in a suitable manner to avoid health hazard of any type.

b. Back flush or pool drainage water shall be directed onto the property on which the swimming pool is located and ultimately to public storm sewer, if available.

c. Drainage of pools directly into public streets or other public drainageways shall require written permission of the zoning administrator and/or public works superintendent. Draining pools into the sanitary sewer is prohibited.

D. Multiple-Family Dwellings, Clubs And Organizations: For private swimming pools which are intended for and used by the occupants of a multiple- family dwelling and the guests of the occupants, or for private and public clubs and organizations, the following regulations shall be met in addition to those listed for single- and two-family dwellings provided in subsection C of this section:

1. No part of the water surface of the swimming pool shall be less than fifty feet (50') from any lot line.

2. No pumps, filter or other apparatus used in connection with or to service a swimming pool shall be located less than fifty feet (50') from any lot line and must be contained within an insulated building.

3. The pool area shall be adequately fenced to prevent uncontrolled access from the street or adjacent property. Fences shall be at least five feet (5') in height for inground pools, and at least four feet (4') in height for aboveground pools. The bottoms of the fences shall not be more than four inches (4") from the ground. Fences shall be of a noncorrosive material and shall be constructed as to be not easily climbable (chainlink fences must be vinyl coated with slats for screening). All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a height not lower than forty eight inches (48") so as to be inaccessible to all small children. Prior to filling the pool, the approved fence or enclosure must be completely in place and inspected and approved by the city building official. Adequate screening, including, but not limited to, landscaping, shall be placed between the pool area and adjacent lot lines.

4. All deck areas, adjacent patios, or other similar areas used in conjunction with the swimming pool shall be located at least thirty feet (30') from any lot line.

5. To the extent possible, back flush water or water from pool drainage shall be directed onto the owner’s property and to the nearest public storm sewer or drainage easement. Draining pools into the sanitary sewer is prohibited.

E. Hot Tubs:

1. Hot tubs accessory to multiple-family residential uses and commercial uses shall comply with swimming pool performance standards of subsection D of this section.

2. Hot tubs accessory to single- and two-family residential units may be allowed by administrative permit and exempt from the swimming pool performance standards of this section but shall meet the following standards:

a. Hot tubs shall not be located in front of the principal building.

b. Hot tubs shall not be located within the required side yard of any zoning district.

c. Hot tubs shall not be located any closer than ten feet (10') from any rear property line.

d. All filter units, heat units, pumps, and any noise generating equipment shall be enclosed within the cabinet of the hot tub and insulated to buffer noise.

e. All outdoor hot tubs shall be enclosed within a protective fence with a self-locking gate or shall be secured with a locked cover when not in use. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-18, 9-18-2003; 2005 Code; Ord. 2010-003, 7-6-2010; Ord. 2013-07, 8-5-2013; Ord. 2017-01, 1-3-2017; Ord. 2019-10, 12-16-2019; Ord. 2022-06, 6-20-2022)

1000.6: FENCES [1] :

Fences shall be permitted in all yards subject to the following:

A. Permit Required: Except for fence exceptions identified in subsection J of this section, it is unlawful for any person to hereafter construct or cause to be constructed or erected within the city any fence without first making an application for, securing, and paying the fee as established in section 3-1-3 of the Albertville City code for a fence permit.

B. Locations: All boundary line fences shall be located entirely upon the private property of the person constructing or causing the construction of such fence. The building official may require the owner of the property upon which a fence now exists, or may require any applicant for a fence permit, to establish the boundary lines of a person's property by a survey thereof to be made by a registered land surveyor.

C. Construction And Maintenance: Every fence shall be constructed in a substantial, professional manner and of metal, wood, masonry, or other decay resistant material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute nuisance, public or private. Any such fence which is, or has become, dangerous to the public safety, health or welfare is a public nuisance, and the zoning administrator shall commence proper proceedings for the abatement thereof.

D. Barbed Wire And Electric Fences: Except as specified in this section, barbed wire fences and electric fences shall only be permitted in the A-1 and A-2 districts when related to farming and hobby farms, and on farms in other districts when related to farming, but not as boundary line fences.

E. Solid Walls: Solid walls eight feet (8') in height may be constructed and maintained only in the buildable area of a lot by approval of a conditional use permit.

F. Corner Lot Fences: On corner lots in all districts, no fence or screen shall be permitted within the triangular area defined as beginning at the intersection of the projected right of way lines of two (2) intersecting streets, thence thirty feet (30') from the point of beginning on the other right of way line, thence to the point of beginning [2].

G. Residential District Fences: All residential fences shall be placed within the property being fenced.

1. Fences not more than six feet (6') in height may be erected along side and rear property lines, provided such fences do not extend forward of the principal structure. In the case of a side yard on a corner lot that abuts a street, a minimum fence setback of twenty feet (20') shall be maintained for all fences exceeding forty eight inches (48") in height. (See diagram 7.A of this section.)

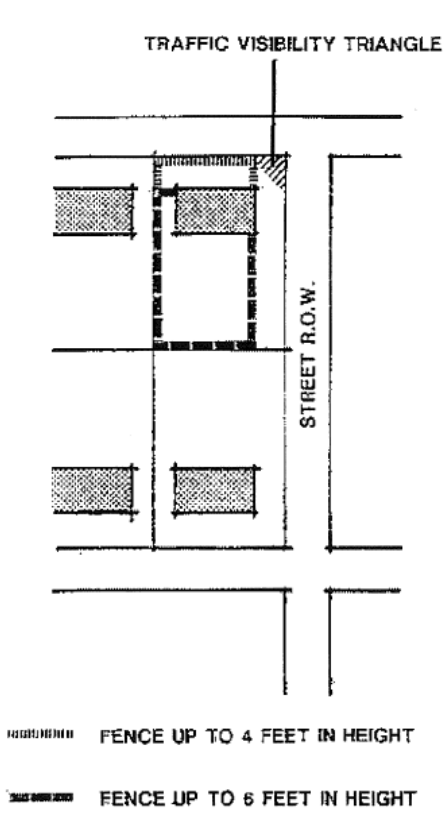


DIAGRAM 7.A

2. Should the rear lot line of a corner lot be common with the side lot line of an abutting lot, a minimum twenty foot (20') side yard setback must be maintained on the corner lot for all fences exceeding forty eight inches (48") in height. (See diagram 7.B of this section.)

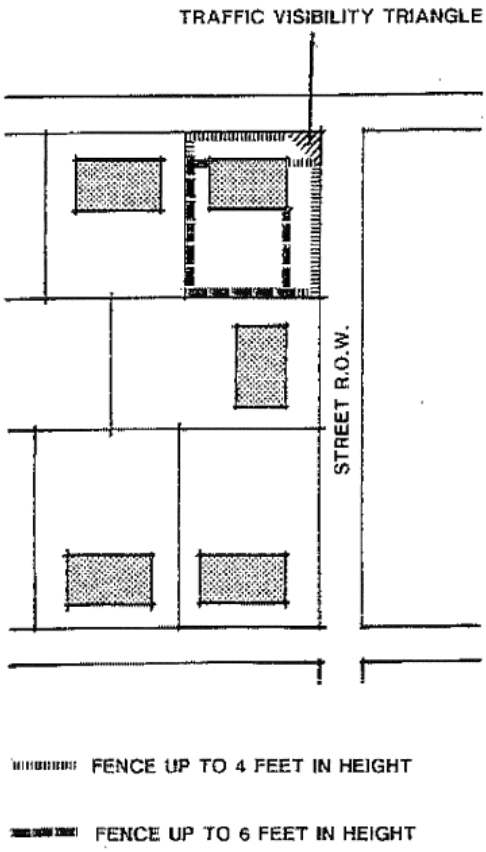


DIAGRAM 7.B

3. The required screening provisions for residential districts shall supersede, where applicable, the provisions of this section.

4. All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced.

5. All fences shall not obstruct natural drainage.

6. Fences extending across required front yards or a required side yard which abuts a street on a corner lot shall not exceed forty eight inches (48") in height, shall be at least seventy five percent (75%) open space for passage of air and light, shall not be constructed of chainlink, and shall maintain the traffic visibility requirements of section 1000.8 of this chapter.

H. Commercial And Industrial District Fences: All commercial and industrial fences shall be placed within the property being fenced.

1. Fences extending across a required front yard or a required side yard which abuts a street on a corner lot shall be at least seventy five percent (75%) open for the passage of air and light and shall maintain the traffic visibility requirements of section 1000.8 of this chapter.

2. Business and industrial fences may be erected up to eight feet (8') in height. Fences in excess of eight feet (8') shall require a conditional use permit.

3. Fences which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire can be fastened commencing at a point at least seven feet (7') above the ground.

4. The screening provisions for commercial and industrial districts shall supersede, where applicable, the provisions of this subsection.

I. Special Purpose Fences: Fences for special purposes and fences differing in construction, height or length may be permitted in any district in the city by issuance of a conditional use permit reviewed by the planning commission and approved by the council. Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which the fence is intended. The city may stipulate the height, location, construction, materials and type of special fence thereby permitted.

J. Exception To Fence Permits: The following temporary fences may be installed or erected without a fence permit:

1. Construction fences needed to secure a construction or excavation site, provided:

a. The project site has an active building permit, demolition permit, or excavation permit.

b. Said fence location is approved by the city building official.

2. Garden fences used to protect gardens, shrubs or landscaping from damage from animals or ornamental fencing that accents a landscape feature may be allowed within a residential zoning district provided:

a. Garden fences shall not exceed forty two inches (42") in height.

b. Garden fences shall not be a boundary line fence and shall not be located closer than five feet (5') from any lot line.

3. Snow fences for the purpose of controlling drifting snow shall be allowed provided:

a. Snow fences shall not be a boundary line fence and shall not be located closer than five feet (5') from any lot line.

b. Snow fences shall not be located in the front yard of any residential lot.

c. Snow fences shall be of a temporary design. These fences shall not be installed prior to November 15 and shall be removed no later than March 15.

4. Any fences related to an active farm and/or permitted farming activity. (Ord. 1988-12, 12-19-1988; amd. Ord. 1999-9, 10-19-1999; Ord. 2003-17, 8-18-2003; 2005 Code; Ord. 2011-002, 2-7-2011; Ord. 2013-07, 8-5-2013; Ord. 2019-13, 12-16-2019)

Notes

1 1. See also subsection 10-4-8E of the city code; see subsections 1000.5C3 and D3 of this chapter for swimming pool fences.

2 1. See also section 1000.8 of this chapter.

1000.7: REQUIRED FENCING, SCREENING, AND LANDSCAPING:

A. Fencing And Screening:

1. Where any business or industrial use (i.e., structure, parking or storage) abuts property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as defined by this ordinance).

2. All fencing and screening specifically required by this ordinance shall be subject to section 1000.8 of this chapter and shall consist of either a fence or a greenbelt planting strip as follows:

a. A greenbelt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide complete visual screening to a minimum height of six feet (6'). Earth mounding or berms may be used but shall not be used to achieve more than three feet (3') of the required screen. The planting plan and type of plantings shall require the approval of the council.

b. A required screening fence shall be constructed of masonry (e.g., brick, stone, decorative concrete block, interlocking or mortarless concrete wall systems), wood or metal. Chainlink fences with privacy slats shall not be permitted within residential or commercial zoning districts to meet the requirements for screening. Such fence shall provide a solid screening effect six feet (6') in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the city council. Fences in excess of six feet (6') in height shall require approval of the zoning administrator and the building official.

B. Landscaping; General Residential:

1. Required Ground Cover: The lot area remaining after providing for driveways, sidewalks, patios, building site and/or other requirements shall be sodded, seeded and mulched prior to issuance of a certificate of building occupancy, as follows:

a. Sod/Seeding Requirement:

(1) The boulevard (street right of way) of the lot shall be sodded.

(2) The front yard beyond the boulevard (street right of way) including the side yard shall be sodded.

(3) The yard may be seeded in lieu of sodding provided it has an underground sprinkler system which covers one hundred percent (100%) of the yard, silt fence installed on the nonsodded perimeter boundary and a cash escrow is established with the city plus a nonrefundable administrative fee in an amount established in section 3-1-3 of the city code. Upon satisfactory installation of the ground cover and significant growth as determined by the city, the escrow will be returned to the property owner and a certificate of occupancy issued.

(4) If the weather or other uncontrollable factors prevent the sodding or seeding of bare ground within fourteen (14) days of the final grading, the area shall be covered with straw or other temporary material to control erosion.

b. Nongrowing Season Escrow:

(1) A temporary certificate of occupancy can be granted for a building during the nongrowing season provided that the owner establishes a cash escrow with the city plus a nonrefundable administrative fee in an amount as established in section 3-1-3 of the city code. Upon satisfactory installation of the ground cover, the escrow will be returned to the property owner and a certificate of occupancy issued.

(2) If the ground cover is not installed by June 1 of the following year, the owner will forfeit the escrowed funds and be required to vacate the property until the certificate of occupancy can be issued when ground cover has been installed. The cost to install the ground cover shall be at the homeowner's expense.

(3) If the weather or other uncontrollable factors prevent the sodding or seeding of bare ground within fourteen (14) days of the final grading, the area shall be covered with straw or other temporary material to control erosion.

(4) A thirty (30) day extension may be granted for good reason by the city council upon written request of the landowner.

c. Exception To Sodding Or Seeding:

(1) A homeowner with a yard area in excess of one acre can apply for an extension to the sodding and seeding requirements for yard area portion in excess of one acre provided the landowner submits a ground cover plan acceptable to the city. The intent of this exception is to allow a landowner to seed and mulch, but not irrigate larger acreages.

2. Required Plantings: In addition to required ground cover specified in subsection B1 of this section and exclusive of required buffering or screening, all residential properties containing four (4) dwelling units or less shall contain a minimum of one shade tree or evergreen tree which shall conform to the minimum size requirements listed in subsection D of this section.

3. Limitations: Fences and trees shall not be located within the street or other public right of way. Any landscape structures and plantings placed upon utility easements or within the public right of way are subject to removal if required for the maintenance or improvement of the utility. Trees on utility easements containing overhead wires shall not exceed twenty feet (20') in height. (The planting of large trees is not recommended under overhead wires.) The amount of hard surfacing provided on a lot shall be limited to the size and area necessary to accommodate ordinance requirements and allowances.

C. Landscaping; New Residential Subdivisions, Semipublic And All Income Producing Property Uses: (Excluding residential structures containing 4 dwelling units or less.) Prior to approval of a building permit, all above referenced uses shall be subject to a mandatory landscape plan and specification requirements.

1. Focus Of Plan: The landscape plan should be developed with an emphasis upon the boundary or perimeter of the proposed site at points adjoining other property and the immediate perimeter of the structure.

2. Required Ground Cover: The lot area remaining after providing for off street parking, off street loading, sidewalks, driveways, building site and/or other requirements shall be sodded or seeded and mulched within thirty (30) days of building occupancy.

a. The front and side yards (and/or any other yard which abuts a public street) of all lots shall be sodded. Rear yards which do not abut a public street may be seeded and mulched. In special cases, deviation from this standard may be approved by the city planner or city building official.

b. In cases where sodding or seeding and mulching has not been done within thirty (30) days of building occupancy, the property owner/developer shall be required to provide an escrow deposit, in an amount established in section 3-1-3 of the city code, which will be returned to the property owner/developer upon completion of the work.

c. If the weather or other uncontrollable factors prevent the sodding or seeding of bare ground within fourteen (14) days of final grading, the area shall be covered with straw or other temporary material to control erosion.

3. Required Plantings: In addition to required ground cover specified in subsection C2 of this section and exclusive of required buffering or screening, all new residential subdivisions, semipublic and all income producing property uses (excluding residential structures containing 4 dwelling units or less) shall be landscaped using ornamental grass, shrubs, trees or other acceptable vegetation or treatment generally used in landscaping within one year following the date of building occupancy.

a. A minimum of one shade tree or evergreen tree shall be provided per residential unit and per nonresidential lot which shall conform to the minimum size requirements listed in subsection D of this section.

b. A minimum of sixteen (16) ornamental trees or shrubs shall be provided per street side of nonresidential lots which shall conform to the minimum size requirements listed in subsection D of this section.

D. Minimum Size Requirements: All plants must at least equal the following minimum size:

	Potted/Bare Root Or Balled And Burlapped
	Potted/Bare Root Or Balled And Burlapped
Shade trees	2 inch diameter
Ornamental trees (flowering crab, Russian olive, hawthorn, etc.)	$1\frac{1}{2}$ inch diameter
Evergreen trees	3 - 4 feet
Tall shrubs and hedge material (evergreen or deciduous)	3 - 4 feet
Low shrubs:	
Deciduous	24 - 30 inches
Evergreen	24 - 30 inches
Spreading evergreens	18 - 24 inches

The type and mode of planting for all trees and shrubs is dependent upon time of planting season, availability, and site conditions (soils, climate, groundwater, manmade irrigation, grading, etc.).

E. Spacing: Plant material centers shall not be located closer than three feet (3') from the fence line or property line and shall not be planted to conflict with public plantings based on the judgment of the city staff.

F. Types Of Plantings:

1. The following species are suitable for screening and landscaping purposes:

Common Name	**Scientific Name**
Common Name	**Scientific Name**
Ground covers:	
Ground juniper	Juniperus spp.
Periwinkle, myrtle	Vinca minor
Shrubs:	
Arborvitae	Thuja spp.
Common lilac	Syringa vulgaris
Dwarf winged euonymus	Euonymus alatus compactus
Japanese yew	Taxus cuspidata
Mock orange	Philadelphus spp.
Privet	Ligustrum spp.
Sumac	Rhus spp.
Winged euonymus	Euonymus alatus
Shade trees:	
American linden	Tilia americana
Crabapple	Malus spp.
Ginkgo tree	Ginkgo biloba (male only)
Hackberry	Celtis occidentalis
Honey locust	Gleditsia triacanthos
Kentucky coffee tree	Gymnocladus dioicus
Little leaf linden	Tilia cordata (and varieties)
Mountain ash	Sorbus spp.
Oak	Quercus spp.
Red maple	Acer rubrum
River birch	Betula nigra

Sugar maple	Acer saccharum
Coniferous trees:	
Austrian pine	Pinus nigra
Black Hills spruce	Picea glaca densata
Colorado blue and green spruce	Picea pungens
Fir	Abies spp.
White pine	Pinus strobosa

2. The following species are prohibited for screening and landscaping purposes within public rights of way:

Common Name	**Scientific Name**
Common Name	**Scientific Name**
Amur maple	Acer ginnala
Ash	Fraxinus spp.
Black locust	Robinia pseudoacacia
Box elder	Acer negundo
Buckthorn	Rhamnus cathartica
Cottonwood	Populus deltoides
Elm	Ulmus spp. (except for disease resistant varieties)
Ginkgo	Ginkgo biloba (female only)
Lombardy poplar	Populus nigra italica
Mulberry	Morus spp.
Norway maple	Acer platanoides
Russian olive	Elaeagnus angustifolia
Siberian elm	Ulmus pumila
Silver maple	Acer saccharinum
Willow	Salix spp.

3. The following species are prohibited for screening and landscaping purposes throughout the entire city of Albertville:

Common Name	**Scientific Name**
Common Name	**Scientific Name**
Amur maple	Acer ginnala
Ash	Fraxinus spp.
Black locust	Robinia pseudoacacia
Buckthorn	Rhamnus cathartica
Elm	Ulmus spp. (except for disease resistant varieties)
Norway maple	Acer platanoides
Russian olive	Elaeagnus angustifolia
Siberian elm	Ulmus pumila

G. Design:

1. The landscape plan must show some form of designed site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc., which are largely intended for aesthetic purposes).

2. All areas within the property lines (or beyond, if site grading extends beyond) shall receive landscape treatment or surfacing. All exterior areas not paved or designated as roads, parking or storage must be planted into ornamental vegetation (lawns, ground covers or shrubs) unless otherwise approved by the zoning administrator.

3. Turf slopes in excess of 2.1 are prohibited.

H. Landscape Maintenance:

1. All plants shall be guaranteed for two (2) full years from the time planting has been completed via a landscaping warranty. All plants shall be alive and in satisfactory growth at the end of the warranty period or replaced.

2. All plants required as part of an approved landscaping plan shall be maintained and kept alive. Dead plants shall be replaced in accordance with the approved landscape plan on file with the city.

3. Maintenance and adherence of the approved landscape plan is the responsibility of the property owner.

4. Failure to adhere to an approved landscape plan constitutes a violation of city approval.

I. Existing Trees: With respect to existing trees in new developments, all trees on the site are to be saved which do not have to be removed for streets, buildings, utilities, drainage or active recreational purposes. Trees over six inches (6") in diameter that are to remain are to be marked with a red band and are to be protected with snow fences or other suitable enclosure prior to any site grading or excavation. The city may further require that the applicant retain a professional forester to prepare a forest inventory and management plan for the development in order to control and abate any existing or potential shade tree disease.

J. Mechanical Equipment: All mechanical equipment, such as air conditioning units, etc., erected on the roof of any structure shall be screened so as not to be visible.

K. Buffer Yards:

1. Lot Depth Requirements: Double frontage residential lots shall have an additional depth of at least twenty feet (20') in order to allow space for buffering/screen planting along the back lot line. Except as may be approved by the city council and except for lots of record, preliminary platted lots, and residential planned unit development concepts having legal standing on January 1, 1998, for those lots which abut arterial or major collector streets, the following minimum lot depths shall be required. Lot widths of double frontage lots which meet the minimum depth requirements may be reduced by ten feet (10'), provided lot area minimums can be met.

Zoning Districts	Required Lot Depth
R-1A, R-2, R-4, R-5, R-6, R-7	170 feet
R-1, R-3, R-8	159 feet

2. Lot Width Requirements: Except as may be approved by the city council and except for lots of record, preliminary platted lots, and residential planned unit development concepts having legal standing on January 1, 1998, lots which border major collector or arterial streets on a side yard shall be increased at least ten feet (10') in required minimum lot width for the purpose of establishing buffers along the lot line bordering such streets.

3. Screening Plan: For applicable subdivisions, a screening plan shall be submitted. The plan shall identify all proposed buffer screening by type, size and location.

4. Timing/Responsibility Of Installation: Weather permitting, all buffer yards, bermings, and/or plantings shall be constructed or planted within thirty (30) days of issuance of an occupancy permit. In cases where buffer yards, bermings, and/or plantings have not been installed within thirty (30) days of building occupancy, the property owner/developer shall be required to provide an escrow deposit equal to one and one-half ($1\frac{1}{2}$) times the estimated cost of the ground cover, which will be returned to the property owner/developer upon completion of the work.

5. Maintenance:

a. Maintenance of the buffer strip planting and/or fence shall be the responsibility of the individual property owners or, if applicable, the homeowners' association.

b. All repairs to the fence or wall and all replacement of landscape materials or plantings shall be consistent with the original approved screening design.

6. Design Standards: All plantings within designated buffer yards shall adhere to the following:

a. Fencing and screening shall be consistent with subsection A of this section.

b. Plant material centers shall not be located closer than three feet (3') from the fence line or property line.

c. Landscape screening shall be planted in two (2) or more rows. Plantings shall be staggered in rows unless otherwise approved by the city council.

d. Where massing of plants or screening is intended, plant spacing shall be specific to the species chosen to provide screening to a height of six feet (6') in compliance with this section. The "American Standard For Nursery Stock" published by the American Association Of Nurserymen shall be used as the reference for spacing guidelines as needed.

e. Landscape materials, sizes, and spacing shall be consistent with subsections D through F of this section. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-17, 11-17-1997; 2005 Code; Ord. 2005-03, 6-6-2005; Ord. 2009-001, 2-2-2009; Ord. 2009-016, 10-5-2009; Ord. 2017-01, 1-3-2017)

1000.8: TRAFFIC VISIBILITY:

A. Corner Lots: On corner lots in all districts, no structure or planting in excess of the street centerline grade shall be permitted within a "triangular area" defined as follows: Beginning at the intersection of the projected property lines of two (2) intersecting streets, thence thirty feet (30') from the point of beginning on the other property line, thence to the point of beginning [1].

B. Fences, Walls And Hedges: No fence, wall or hedge shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two feet (2') and eight feet (8') where it will interfere with traffic or pedestrian visibility from a driveway or alley to a public way. In required front yards or a required side yard abutting a street on a corner lot, fences, walls, hedges, or structures shall be at least seventy five percent (75%) open space for passage of air and light. These regulations shall apply unless it can be demonstrated that the structure provides an unobstructed view so as not to create a safety hazard. (Ord. 1988-12, 12-19-1988)

Notes

[1] 1. See also subsection 1000.6F of this chapter.

1000.9: DRAINAGE PLANS:

A. Water Runoff In Adjacent Properties Prohibited: No land shall be developed and no use shall be allowed that results in water runoff causing flooding, erosion, or deposit of minerals on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area, or other public facilities subject to the review and approval of the city engineer and in accordance with storm drainage plans as may be established by the city.

B. Submittal Of Drainage Plans: In the case of all residential subdivisions, multiple-family, business and industrial developments, the drainage plans, including necessary spot elevations, shall be submitted to the city engineer for his review, and the final drainage plan shall be subject to his written approval. In the case of such uses, no modifications in grade and drainage flow through fill, erection of retaining walls or other such actions shall be permitted until such plans have been reviewed and have received written approval from the city engineer.

C. Top Of Foundation And Garage Floor Requirements: Except by written authorization of the city engineer, the top of the foundation and garage floor of all structures shall be one and one-half feet ($1\frac{1}{2}$') above the grade of the crown of the abutting street.

D. Structure Elevations: No structures, except docks and retaining walls, shall be constructed below the following minimum elevations:

1. For structure adjacent to ponds, wetlands, ditches, and other water bodies: all low opening elevations shall be at least two feet (2') above the 100-year flood level (HWL); all low floor elevations shall be at least one foot (1') above the normal water level (NWL); all low openings shall be at least two feet (2') above the emergency overflow (EOF).

2. For public waters and public water wetlands (DNR protected water bodies) follow the criteria in subsection 4905.22 of this ordinance for

setting structure elevations.

3. In the case of a landlocked basin, the low floor and low opening elevation shall be at least one and three feet (3'), respectively, above the surveyed basin overflow; or one and three feet (3'), respectively, above the high water level of the basin as determined from an estimate using the SHYM, or two (2) 100- year, twenty four (24) hour back to back storm events, whichever produces the higher peak water elevations, under full build out conditions for the contributing watershed. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-17, 11-17-1997; Ord. 2004-19, 12-20-2004; Ord. 2009-009, 3-2-2009)

1000.10: OUTDOOR LIGHTING:

A. Purpose: It is the purpose of this section to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing nighttime safety, utility, security and productivity.

B. Exemptions: The provisions of this section shall not apply to the following:

1. This section does not prohibit the use of temporary outdoor lighting used during customary holiday seasons.

2. This section does not prohibit the use of temporary outdoor lighting used for civic celebrations and promotions.

3. Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.

4. Emergency lighting by police, fire, and rescue authorities.

C. Nonconforming Uses; Existing Fixtures:

1. Existing Fixtures: All outdoor lighting fixtures existing and legally installed prior to the effective date hereof are exempt from regulations of this section but shall comply with the ordinance requirements for glare as follows: Any lighting used to illuminate an off street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky reflected glare, where from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Except as provided in subsection B of this section, bare incandescent light bulbs shall not be permitted in view of adjacent property or public right of way. Any light or combination of lights which casts light on a public street shall not exceed one foot-candle (meter reading) as measured from the right of way line of said street. Any light or combination of lights which casts light on residential property shall not exceed four-tenths (0.4) foot-candles (meter reading) as measured from said property.

2. New Fixtures: Whenever a light fixture that was existing on the effective date hereof is replaced by a new outdoor light fixture, the provisions of this section shall be complied with.

D. Intensity: No light source or combination thereof which casts light on a public street shall exceed one foot-candle (meter reading) as measured from the right of way line of said street nor shall any light source or combination thereof which casts light on adjacent residential property exceed four-tenths (0.4) foot-candles (meter reading) as measured at the property line per the method outlined in subsection E of this section.

E. Method Of Measuring Light Intensity: The foot-candle level of a light source shall be taken after dark with the light meter held six inches (6") above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two (2) readings will be identified as the light intensity.

F. Performance Standards:

1. Residential/Public/Semipublic/Institutional District Standards: In all residential and public, semipublic/institutional districts, any lighting used to illuminate a structure, an off street parking area, or other area shall be arranged as to deflect light away from any adjoining residential property or from any public right of way. All lighting shall be installed in accordance with the following provisions:

a. The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity defined by this ordinance.

b. Except as allowed in subsection B of this section, bare light bulbs shall not be permitted in view of adjacent property or public right of way unless part of a permanent or decorative fixture.

2. Business/Industrial District Standards: Any lighting used to illuminate a structure, an off street parking area, or other area in a business or industrial district shall be arranged so as to deflect light away from any adjoining residential property or from any public right of way. All lighting shall be installed in accordance with the following provisions:

a. Light Cutoff: The luminaire shall contain a cutoff which directs and cuts off the light at an angle of ninety degrees (90°) or less.

b. Lighting Adjacent Property: Light sources shall not be permitted so as to light adjacent property in excess of the maximum intensity defined in subsection D of this section.

c. Architectural/Historical Light Fixtures: Architectural/historical light fixtures that feature globes that are not shielded, or lighting of entire facades or architectural features of a building, may be approved by the city council. In no case shall the light affect adjacent property in excess of the maximum intensity defined in subsection D of this section.

d. Height Of Source And Pole: The maximum height of the fixture and pole above the ground grade permitted for light sources is thirty feet (30'). A light source mounted on a building shall not exceed the height of the building. In no case shall the height of a light source mounted on a pole or on a building exceed the height limits of the zoning district in which the use is located, unless allowed by conditional use permit.

e. Location:

(1) The light source of an outdoor light fixture shall be set back a minimum of ten feet (10') from a street right of way and five feet (5') from an interior side or rear lot line.

(2) No light source shall be located on the roof unless said light enhances the architectural features of the building and is approved by administrative permit.

f. Hours:

(1) The use of outdoor lighting for parking lots serving commercial and industrial businesses shall be turned off one hour after closing, except for approved security lighting.

(2) All illuminated window signs for advertising purposes shall be turned off between twelve o'clock (12:00) midnight and sunrise; except, that said signs may be illuminated while the business facility on the premises is open for service.

g. Glare From Processes: Direct or reflected glare from high temperature processes such as combustion or welding shall not be visible from

any adjoining property.

3. Outdoor Recreation: Outdoor lighting associated with outdoor commercial or public recreational uses such as, but not limited to, baseball fields, football fields, hockey rinks, and tennis courts, shall comply with the following provisions:

a. No outdoor recreation facility, whether public or private, shall be illuminated after eleven o'clock (11:00) P.M., except for required security lighting.

b. Off street parking areas for outdoor recreation uses which are illuminated shall meet the requirements stated for business or industrial applications as found in subsection F2 of this section.

G. Submission Of Plans: All applications, except single-family residential, that include outdoor lighting shall include evidence that the proposed outdoor lighting will comply with this section. The application shall contain the following information, in addition to other required information:

1. Site plans indicating the location on the premises of all illuminating devices, fixtures, lamps, supports, reflectors, and other lighting devices.

2. Description of the type of illuminating devices, fixtures, lamps, supports, reflectors, and other lighting devices (angle of cutoff). The description shall include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required).

3. Photometric plans illustrating the light emissions and illumination field of the proposed site lighting. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-37, 12-15-2003; 2005 Code)

1000.11: SMOKE:
(Rep. by Ord. 2009-002, 2-2-2009)

1000.12: DUST AND OTHER PARTICULATED MATTER:
(Rep. by Ord. 2009-002, 2-2-2009)

1000.13: ODORS:
(Rep. by Ord. 2009-002, 2-2-2009)

1000.14: REFUSE RECEPTACLES; LOCATION AND SCREENING:
A. Dwelling Units, Single-Family, Duplexes, And All Other Residential Structures With Four Or Less Units: Garbage cans, waste containers and recycling bins for dwelling units, single-family, duplexes, and all other residential structures with four (4) or less units shall be kept either within the principal building or accessory building or in rear or side yards.

B. Commercial, Industrial, Institutional, Or Residential Structures With More Than Four Units: The following provisions apply to commercial, industrial, institutional, and residential structures with more than four (4) units:

1. Storage: All refuse, recyclable materials [1], and necessary handling equipment including, but not limited to, garbage cans, recycling bins, and dumpsters shall be stored within the principal structure, within an accessory building, or a trash enclosure that totally screens the equipment from eye level view from all neighboring uses and the public right of way.

2. Trash Enclosures: Trash enclosures that contain refuse and recyclable material or equipment shall require the following:

a. Exterior wall of the trash enclosure shall be masonry or similar and/or complement the principal building.

b. The enclosed trash and/or recycling receptacle/enclosure area shall be located in the rear or side yard and shall observe all applicable accessory building setback requirements and easements.

c. The trash and/or recycling enclosure shall be in an accessible location for pick up hauling vehicles.

d. The trash and/or recycling receptacles shall be fully screened from view of adjacent properties and the public right of way by a fence or wall of at least six feet (6') in height.

e. All dumpsters, recycling bins, handling equipment, and enclosures shall be approved by the zoning administrator and be kept in a good state of repair with lids designed to prevent spilling and spread of debris and access by animals. All designs and construction of trash enclosures shall be subject to approval by the city building official. (Ord. 1988-12, 12-19-1988; amd. Ord. 1990; Ord. 2003-26, 11-3-2003; 2005 Code; Ord. 2019-11, 12-16-2019)

Notes

[1] 1. See also section 5-2-5 of the city code.

1000.15: OUTSIDE STORAGE, RESIDENTIAL, COMMERCIAL AND INDUSTRIAL USES:
A. All outside storage of materials and equipment for residential uses (excluding farms) shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:

1. Clothesline pole and wire.

2. Not more than two (2) recreational vehicles, subject to the following conditions:

a. Front yard storage:

(1) All permitted recreational vehicle storage must be on a driveway or paved surface.

(2) All permitted recreational vehicle storage must be set back at least fifteen feet (15') from the back of the curb and may not extend into any sidewalk area.

(3) Permitted recreational vehicle storage shall not interfere with stormwater drainage or be located over an existing utility and may be subject to the review and approval of the zoning administrator.

b. Side yard storage:

(1) All permitted recreational vehicle storage must be on an area surfaced with asphalt, concrete or crushed rock with a border that prevents erosion.

(2) All permitted recreational vehicle storage must be set back at least two feet (2') from the property line.

(3) All permitted recreational vehicle storage within a side yard shall be located adjacent to the garage with direct access from the existing

driveway. The access to the storage area shall be surfaced with asphalt, concrete or crushed rock.

(4) Outdoor storage pads may be constructed within public utility and drainage easements provided that:

(A) Permitted recreational vehicle or trailer storage shall not interfere with stormwater drainage or divert stormwater to neighboring properties.

(B) No parking pad shall be located within a drainage or utility easement without written permission of the city engineer.

(C) Removal of a parking pad or a portion thereof for the purpose of utilizing an established drainage and utility easement shall be at the property owner's expense and will not be replaced by the city.

(5) On a corner lot, all permitted recreational vehicle storage must be set back at least twenty feet (20') from the property line abutting a street right of way.

c. Rear yard storage:

(1) All permitted recreational vehicle storage must be set back at least five feet (5') from the rear lot line and five feet (5') from the side lot line(s) if not on a paved surface.

(2) Permitted recreational vehicle storage shall not interfere with stormwater drainage or be located over an existing utility and may be subject to the review and approval of the zoning administrator.

3. Construction and landscaping material currently being used on the premises.

4. On and off-street parking of currently registered and operable passenger vehicles and trucks with a classification of vehicle classes 1-3, with the exception for one (1) class 4 recreational vehicle that is stored on a residential lot in compliance with Section 1000.15.A.2 of the Albertville code.

5. Lawn furniture or furniture used and constructed explicitly for outdoor use.

6. Rear or side yard exterior storage of firewood for the purpose of consumption only by the person or persons on whose property it is stored.

7. Temporary storage containers including, but not limited to, cargo containers, portable on demand storage units, and dumpsters, are not allowed as permanent storage structures. Temporary storage containers being used for household relocation and improvement projects are permitted subject to the following conditions:

a. The temporary storage container is enclosed and secure.

b. The temporary storage container is located on a property for no more than thirty (30) consecutive days in one calendar year, unless there is an active building permit in place for the property, in which case the temporary storage container may be located on the property for no more than ninety (90) consecutive days.

c. The temporary storage container is located on a driveway or hard surface area in the front yard, must be setback a minimum of fifteen feet (15') from the public street curb and five feet (5') from a private street curb, and five feet (5') from side property lines, and may not intrude on sidewalks.

d. No permit is required for the temporary storage container. The city may require information appertaining to the dates upon which the temporary storage container was placed on a property and when it will be removed if concerns are raised over the duration of time during which the storage container is located on the property.

8. Residential dumpster bags being used for household relocation and improvement projects are permitted subject to the following conditions:

a. The residential dumpster bag is located on a property for no more than fourteen (14) consecutive days in one calendar year, unless there is an active building permit in place for the property, in which case the residential dumpster bag may be located on the property for no more than ninety (90) consecutive days.

b. The residential dumpster bag must be setback a minimum of five feet (5') from the public street curb and five feet from a private street curb, and five feet (5') from side property lines, and may not intrude on sidewalks.

c. No permit is required for the residential dumpster bag. The city may require information pertaining to the dates upon which the residential dumpster bag was placed on a property and when it will be removed if concerns are raised over the duration of time during which the residential dumpster bag is located on the property.

B. Except as allowed by district use provisions, outside storage of equipment, materials and inventory as an accessory use for commercial and industrial uses shall require a conditional use permit subject to the provisions of chapter 400 of this ordinance. In addition, all nonresidential outside storage shall conform to the following conditions:

1. The area occupied is not within a required front or required side yard.

2. The storage area is totally fenced, fully screened and landscaped according to a plan approved by the zoning administrator, and a landscape guarantee, as determined by the zoning administrator, is provided.

3. If abutting a residential district or use, screening and landscaping is provided according to a plan approved by the zoning administrator.

4. The storage area is grassed or surfaced with asphalt, concrete, or crushed rock (concrete or granite) to control dust. Should an area surfaced with anything other than hard surfacing prove to be unmaintainable, the city shall require that a hard surface be installed within three (3) months of formal written notice to the property owner.

5. All lighting shall be hooded and so directed that the light source shall not be visible from the public right of way or from neighboring residences and shall be in compliance with section 1000.10 of this chapter.

6. The storage area does not encroach upon required public or employee parking space(s), required loading space, or snow storage area as required by this ordinance.

7. A site plan documenting the location and grading of the storage operation shall be submitted and shall be subject to the approval of the city engineer.

8. Parking in excess of the required number of parking stalls per Section 1200.9 of the Albertville zoning Code shall be considered outdoor storage for the purpose of calculating the total area of allowed for outdoor storage.

9. The ratio of outdoor storage area to principal building footprint shall not exceed 3: 1.

C. All new uses shall comply with the foregoing procedures and standards. For the purpose of public health and safety, any outside storage

existing upon the effective date hereof shall be brought into compliance (including required review and processing by the city) no later than January 1, 1995. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-11, 9-20-1993; Ord. 2004-02, 1-5-2004; Ord. 2015-02, 5-18-2015; Ord. 2021-13, 10-18-2021; Ord. 2022-03, 3-7-2022; Ord. 2022-08, 6-20-2022; Ord. 2022-16, 12-5-2022 ; Ord. 2023-08, 7-17-2023)

1000.16: SEWAGE DISPOSAL [1] :

A. Once available, all on site sewage disposal systems shall be connected to the public sanitary system within two (2) years.

B. The installation of on site sewage treatment systems shall be in compliance with Minnesota rules 7080. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

Notes

1 1. See also subsection 4905.82B of this ordinance; title 9, chapters 3 and 4 of the city code.

1000.17: WASTE MATERIAL:

Waste material resulting from or used in industrial or commercial manufacturing, fabricating, servicing, processing or trimming shall not be washed into the public storm sewer system nor the sanitary sewer system or any public water body, but shall be disposed of in a manner approved by the Minnesota state fire marshal, the pollution control agency, and the department of natural resources. (Ord. 1988-12, 12-19-1988)

1000.18: BULK STORAGE (LIQUID) [1] :

All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with requirements of the Minnesota state fire marshal and Minnesota department of agriculture offices and have documents from those offices stating the use is in compliance. (Ord. 1988-12, 12-19-1988)

Notes

1 2. See also section 10-3-5 of the city code.

1000.19: RADIATION EMISSION:

(Rep. by Ord. 2009-002, 2-2-2009)

1000.20: ELECTRICAL EMISSION:

(Rep. by Ord. 2009-002, 2-2-2009)

1000.21: FIRE HYDRANTS [1] :

A. Responsibility: Pursuant to subsections 1000.7B and C and sections 1000.8 and 1000.9 of this chapter, and chapter 2600 of this ordinance, private property owners shall be responsible for the maintenance of the boulevard portion of the public right of way upon which their property fronts and for the public easements which may exist upon their property.

B. Area Protection: So as to ensure and maintain public safety, no fences, shrubs, trees, landscape ornaments, berms or other physical obstruction shall be placed within a five foot (5') radius of fire hydrants placed in public rights of way or public easements. The protected area shall be seeded or sodded, or surfaced with gravel/landscape rocks which are no larger than two inches (2") in diameter. Furthermore, the city shall not be responsible or held liable for any damage resulting from the maintenance or emergency use of a fire hydrant, nor the removal of obstructions which violate the provisions of this section.

C. Snow Removal: No person shall deposit or cause to be deposited any snow and/or ice on or against a fire hydrant. It shall be the responsibility of the city to maintain snow clearance necessary for the successful operation of fire hydrants within public rights of way or public easements.

D. Corrective Actions: Properties found to be in violation of the provisions of this section shall, upon written notice from the city, remove any obstruction or correct any problems and be in compliance with this section within fifteen (15) days from the date of said notice. Failure to comply with said notice shall result in corrective actions being taken by the city, and the cost for such actions charged and assessed to the property in question. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-1, 1-19-1993)

Notes

1 1. See section 9-2-8 of the city code for fire hydrant use restrictions.

1000.22: TEMPORARY OUTDOOR SEASONAL SALES:

Temporary outdoor seasonal sales may be permitted in any business zoning district; provided, that the following minimum criteria are complied with: A permit application form and fee, as established in section 3-1-3 of the city code, shall be submitted to the city administrator who is hereby authorized to review and approve permits for temporary outdoor seasonal sales, provided the following criteria are established:

A. The maximum term of operation shall be sixty (60) consecutive days, with a maximum of two (2) permits per calendar year for each use.

B. No portion of the use shall take place within any public right of way or landscaped green strip.

C. Parking and display areas associated with the use shall not distract or interfere with existing business operations or traffic circulation patterns.

D. Display areas and parking spaces shall use those parking lot spaces that are in excess of the minimum required parking for the primary use of that property.

E. The site shall be kept in a neat and orderly manner, and display of items shall be as compact as possible so as to not interfere with existing business, parking or driveway operations.

F. Sales products, trailers, temporary stands, etc., shall be located on an asphalt or concrete surface as approved in the administrative permit.

G. Temporary outdoor seasonal sales uses (with a valid administrative permit) may have one on site temporary sign not to exceed twenty four (24) square feet in area and not more than twelve feet (12') in height [1] .

H. The owner/operator shall have the written permission of the current property owner to locate the use on a specific site.

I. A daily cleanup program shall be presented as part of the administrative permit application.

J. Those temporary outdoor seasonal sales uses that are determined by the city administrator not to be consistent with the intent of the city code or comprehensive plan may be appealed pursuant to the process outlined in chapter 600 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 1999-8, 10-19-1999; Ord. 2010-002, 7-19-2010; Ord. 2017-01, 1-3-2017)

Notes

[1] 1. See also subsection 10-7-7B of the city code.

1000.23: TWO-FAMILY, TOWNHOUSE, QUADRAMINIUM, MULTIPLE-FAMILY USES:
In addition to the regulations outlined within each zoning district, all projects that include attached residential units are subject to the following requirements:

A. Submittals Required: All requests for a development shall be accompanied by a series of site plans and data showing:

1. Building locations, dimensions, and elevations, all signs, structures, entry areas, storage sites, and other structural improvements to the site including future decks and porches.

2. Circulation plans for both pedestrian and vehicular traffic.

3. Fences and screening devices.

4. Solid waste disposal/recycling provisions and facilities.

5. Storm drainage plans.

6. Firefighting and other public safety facilities and provisions such as hydrant locations and fire lanes.

7. Data pertaining to numbers of dwelling units, sizes, lot area, ratio, etc.

8. Exterior wall materials and design information.

9. A two foot (2') contour topographical map of the existing site.

10. A grading plan illustrating the proposed grade changes from the original topographical map. All site area, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, stormwater and ground water in such a manner as to preclude large scale erosion, unwanted ponding and surface chemical runoff.

11. A recreation plan illustrating, in detail, all recreational facilities and structures.

12. A landscape plan consistent with the standards in section 1000.7 of this chapter.

13. A soil erosion control plan for the construction period.

14. Park dedication consistent with section 11-7-8-2 of the city code.

B. Height, Setback And Land Area Requirements: Height, setback and land area requirements shall be as required in the underlying zoning district and section 1100.10 of this ordinance.

C. Maximum Development Density: The maximum development density for two-family, townhome, quadraminium, or multiple-family will be based on the net buildable area as required in section 1100.9 of this ordinance. The required lot size is exclusive of public street rights of way, wetlands, major drainageways, water bodies, and slopes steeper than twelve percent (12%). Required lot area per unit may be decreased by up to twenty five percent (25%) based on the following features:

Bonus Feature	**Lot Area Per Unit Reduction**
For each additional percentage point in value of landscape amenities, as outlined in subsection E of this section	100 square feet
For each additional 15 percent of park dedication above the minimum established by city council ordinance (cash, land, or construction), as determined acceptable by the city	100 square feet
For each additional 5 percent of open space developed above the minimum established in subsection E2 of this section	100 square feet
For each required parking space, that is included with basic rent, provided underground	300 square feet
For each 2,000 square feet of indoor private community center/recreation space up to a maximum of 4,000 square feet for 50 units in the project	200 square feet

D. Parking Requirements: Parking requirements shall be provided as required by chapter 1200 of this ordinance.

E. Landscape Provisions:

1. All open areas of the development project which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, understory trees, shrubs, flowers, and ground cover materials. The plan for landscaping shall include ground cover, bushes, shrubbery, trees, sculpture, foundations, decorative walks or other similar site design features or materials in a quantity having a minimum value in conformance with the following table:

Project Value Including Building Construction, Site Preparation, And Site Improvements	**Minimum Landscape Value (Plantings And Installation)**

Below $1,000,000.00	2 percent
$1,000,001.00 - $2,000,000.00	$20,000.00, plus 1 percent of project value in excess of $1,000,000.00
$2,000,001.00 - $3,000,000.00	$30,000.00, plus 0.75 percent of project value in excess of $2,000,000.00
$3,000,001.00 - $4,000,000.00	$37,500.00, plus 0.25 percent of project value in excess of $3,000,000.00
Over $4,000,000.00	1 percent

2. Each site shall include at least thirty percent (30%) open space, that is space without buildings, paving, or other impervious surface.

3. The landscaping standards and requirements shall be consistent with section 1000.7 of this chapter.

F. Screening:

1. Screening to a height of at least five feet (5') shall be required when a drive access to a parking area or off street parking area that contains more than six (6) parking spaces is within thirty feet (30') of an adjoining residential zone.

2. All exterior storage shall be screened. The exterior storage screening required shall consist of a solid fence or wall not less than five feet (5') in height, and shall be located to meet the required building setbacks for the district.

3. In multiple-family dwelling developments, refuse/recycling, either combustible or noncombustible, shall be contained in a rodentproof, screened structure near the principal building. Access doors large enough to allow bin type refuse containers to be removed for loading in refuse trucks shall be a part of the design of the refuse storage space.

4. For two-family, townhouse and quadraminium developments subject to these regulations, trash containers shall be stored within the garage or individual unit.

G. Streets: All streets shall be public and shall comply with design standards and specifications as governed by the city subdivision ordinance[1] unless private roads are permitted under a PUD.

H. Drives:

1. Dead end private driveways shall serve a maximum of twenty four (24) dwelling units subject to the ability to provide emergency vehicle access and maneuvering space.

2. Private drives shall be under the ownership and control of the property owner association which shall be responsible for the maintenance, repair, and replacement of surfacing.

3. Private drives must include plans and areas for snow storage.

I. General Requirements:

1. All units proposed under this ordinance shall be designed and constructed to have a mix of exterior finishes that shall include at least twenty five percent (25%) brick or stone or an equivalent material to be approved by the city.

2. Multiple-family units of three (3) or more stories shall be constructed of brick or stone or an equivalent material, to be approved by the city, on at least fifty percent (50%) of each exterior elevation of a building.

3. Parking, storage or garage entrance areas of multiple-family dwelling developments shall be placed interior to the site rather than by neighboring residential uses.

4. All multiple residence dwelling units (apartments) shall provide a minimum of one hundred fifty (150) square feet of miscellaneous storage space for each dwelling unit within the structure. Such space shall be in addition to normal storage space provided in wardrobes, cabinets, closets, and linen closets.

5. No multiple residence dwelling unit shall be so constructed as to have more than forty percent (40%) of the horizontal linear distance of a unit's exterior wall below ground. Continuous window wells or other selective excavation shall not be used to circumvent this restriction. Areas which do not qualify as dwelling units because of the restriction may be used for recreation, amusement, storage, parking or as utility areas.

6. Sidewalks shall be provided from parking areas, loading zones and recreation areas to the entrances of the building.

J. Recreation Areas:

1. The city council may require, at its discretion, that open space, as required in subsection E2 of this section, be configured in a manner to provide recreation facilities such as a tot lot or playing fields. The need for such facilities shall be based in part on the type of structure(s) proposed, the target market for the units, the proximity to public recreation areas and other factors identified by the city.

2. Outdoor swimming pools or other intensive recreation uses shall observe setbacks as required for the principal structure.

K. Remodeling, Renovation, And Improvements To Existing Structure Requirements: Any remodeling, renovation, or improvements to an existing two-family, townhouse, quadraminium or multiple-family structures shall meet the following requirements:

1. Replicate the original exterior finishes of the building. This requirement shall be waived if a complete renovation of the entire development/building is being done in cooperation with all owners in the same development/building.

2. Complement the architecture of adjoining attached unit (unless the original approval was for varying exterior finishes, colors, etc.).

3. This section shall only apply to exterior finishes, such as the type or color of finishes, building materials, siding, driveway applications (where driveways are attached), etc. (Ord. 1988-12, 12-19-1988; amd. Ord. 2000-6, 8-7-2000; 2005 Code; Ord. 2009-019, 11-2-2009)

Notes

1 1. See section 11-7-6 of the city code.

1000.24: OPT OUT OF MINNESOTA STATUTES SECTION 462.3593:
Pursuant to authority granted by Minnesota statutes section 462.3593, subdivision 9, the city of Albertville opts out of the requirements of Minnesota statutes section 462.3593, which defines and regulates temporary family healthcare dwellings. (Ord. 2016-08, 8-15-2016)

1000.25: SOLAR ENERGY SYSTEMS:
A. Zoning District Allowance. Roof- mounted Solar energy systems in accordance with the standards in this Chapter are allowed as a permitted in all zoning districts.

B. Standards.

1. Height. Roof-mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district.

2. Setbacks. Roof-mounted systems shall comply with all building setbacks in the applicable zoning district and shall be setback eighteen (18) inches from the perimeter and the crown of the roof on which the system is mounted.

3. Roof Mounting. Roof-mounted solar collectors on residential buildings may be flush-mounted or bracket-mounted. Bracket-mounted collectors shall be permitted only when a determination is made by the City Building Official that the underlying roof structure will support apparatus with regard to wind, and snow loads, and all applicable building standards are satisfied.

4. Screening. Roof-mounted solar energy systems on commercial, industrial, or institutional buildings shall be treated as mechanical equipment and shall be screened from view from adjoining properties or public streets.

5. Fire access. Roof-mounted solar energy systems shall provide a thirty-six (36) inch unobstructed fire access lane at the periphery or through the solar energy system.

6. Aesthetics. All solar energy systems shall minimize glare towards vehicular traffic and adjacent properties.

C. Safety.

1. Standards. Solar energy systems shall meet the minimum standards outlined by the International Electrotechnical Commission (IEC) ,the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE), ASTM International, British Standards Institution (BSI), International Electrotechnical Commission (IEC), International Organization for Standardization (ISO), Underwriter's Laboratory (UL), the Solar Rating and Certification Corporation (SRCC) or other standards as determined by the City Building Official.

2. Certification. Solar energy systems shall be certified by Underwriters Laboratories, Inc. and the National Renewable Energy Laboratory, the Solar Rating and Certification Corporation or other body as determined by the City Building Official. The City reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

3. Utility Connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect shall be provided if required by the utility.

D. Permit. A building permit shall be obtained for any solar energy system prior to installation. (Ord. 2022-09, 6-20-2022)

CHAPTER 1100

GENERAL YARD, LOT AREA AND BUILDING REGULATIONS

SECTION:

1100.1: Purpose

1100.2: Usable Open Space

1100.3: Height

1100.4: Building Type And Construction

1100.5: Yards

1100.6: Minimum Floor Area Per Dwelling Unit

1100.7: Efficiency Apartments

1100.8: Minimum Floor Area; Commercial And Industrial Structures

1100.9: Minimum Lot Area Per Unit

1100.10: Two-Family, Townhouse, Quadraminium, Multiple-Family Uses

1100.11: Minimum Lot Area, Unsewered Lots

1100.12: Single-Family Dwellings

1100.1: PURPOSE:
This chapter identifies yard, lot area, building size, building type and height requirements in each zoning district. (Ord. 1988-12, 12-19-1988)

1100.2: USABLE OPEN SPACE:
A. Except as may be approved by the city council and except for lots of record, preliminary platted lots, and residential planned unit development concepts having legal standing on January 1, 1998, lots in all zoning districts of the city must contain usable/buildable upland equal to at least eighty percent (80%) of the required minimum lot areas. The required upland area shall not contain wetlands, streams, ponds, or any other nonbuildable terrain. Lots which involve wetland mitigation practices shall be evaluated for conformance with this requirement based on wetland mitigation plans indicating areas of wetland filling or dredging.

B. In addition to the setbacks required for principal and/or accessory structures under individual zoning districts of the city or in other sections of this ordinance, all structures must be set back a minimum of twenty feet (20') from the ordinary high water level or elevation of the line of permanent aquatic vegetation (whichever is greater) of wetlands, ponds or drainageways.

C. Except for elderly (senior citizen) housing, each multiple- family dwelling site shall contain at least five hundred (500) square feet of "usable

open space", as defined in section 200.2 of this ordinance, for each dwelling unit contained thereof. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-17, 11-17-1997)

1100.3: HEIGHT:

A. Building heights in excess of those standards contained in the district provisions may be allowed through a conditional use permit; provided, that:

1. The site is capable of accommodating the increased intensity of use.

2. The increased intensity of use does not cause an increase in traffic volume beyond the capacity of the surrounding streets.

3. Public utilities and services are adequate.

4. For each additional story over three (3) stories or for each additional ten feet (10') above forty feet (40'), front and side yard setback requirements shall be increased by five percent (5%).

5. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

B. The building height limits established for districts shall not apply to the following:

1. Belfries.

2. Chimneys or flues.

3. Church spires.

4. Cooling towers.

5. Cupolas and domes which do not contain usable floor space.

6. Elevator penthouses.

7. Flagpoles.

8. Monuments.

9. Parapet walls extending not more than three feet (3') above the limiting height of the building.

10. Poles, towers and other structures for essential services.

11. Necessary mechanical and electrical appurtenances.

12. Farm buildings.

13. Wind energy conversion system towers as regulated by chapter 2400 of this ordinance.

14. Antennas and antenna support structures as regulated by chapter 2500 of this ordinance.

C. No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than twenty five percent (25%) of the area of such roof nor exceed ten feet (10') unless otherwise noted. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997)

1100.4: BUILDING TYPE AND CONSTRUCTION:

A. Exterior Materials: No galvanized or unfinished steel, galvalum or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as corten steel, shall be permitted in any zoning district, except in association with farming operations or as allowed by section 1000.4 of this ordinance.

B. Architecture And Aesthetics: Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety, and general welfare.

C. Exterior Finishes: Exterior building finishes shall consist of materials comparable in grade and quality to the following:

1. Brick.

2. Natural stone.

3. Decorative concrete block.

4. Cast in place concrete or precast concrete panels.

5. Wood, provided the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood or cypress.

6. Curtain wall panels of steel, fiberglass and aluminum (nonstructural, nonload bearing), provided such panels are factory fabricated and finished with a durable nonfade surface, and their fasteners are of a corrosion resistant design.

7. Glass curtain wall panels.

8. Stucco.

9. Vinyl.

10. Other materials determined to be acceptable by the city council.

D. Wall Area Calculation: For purposes of calculating exterior building material requirements, the total wall area of structures shall be calculated by taking the total solid surface area. The solid surface area shall encompass all exterior surfaces including any portion of overhead garage doors with windows but excluding all other windows and doors.

E. Business Districts: Building type and construction requirements within business districts shall be governed by the applicable provisions of the respective zoning district in which a use is located.

F. Industrial Districts: In industrial districts, all buildings constructed of curtain wall panels or finished steel, aluminum or fiberglass shall be required to be faced with brick, wood, stone, architectural concrete cast in place or precast concrete panels on all wall surfaces. Except for walls that face a public right of way, the required wall surface treatment may allow a maximum of seventy five percent (75%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design. For building walls which face public rights of way or abut residential uses, the required wall surface treatment may allow a maximum of fifty percent (50%) of the metal or fiberglass wall to remain exposed if it is coordinated into

the architectural design. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-6, 4-5-1993; Ord. 1997-17, 11-17-1997; Ord. 2003-28, 11-3-2003; Ord. 2004-26, 12-6-2004; 2005 Code)

1100.5: YARDS:

No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this ordinance, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.

A. The following shall not be considered as encroachments on yard setback requirements:

1. Accessory structures, as governed by this ordinance, are permitted in rear yards.

2. Awnings, balconies, chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, buttresses, eaves, gutters, and the like, provided they do not project more than two feet (2') into the yard.

3. Walks or steps for negotiating ground slopes, retaining walls, terraces, accessibility ramps, steps, uncovered porches and decks, stoops, hedges and natural growth, or similar features, provided they do not extend above the height of the first floor entry of the principal structure or five feet (5') into the front yard or to a distance less than five feet (5') from any side lot line. Except that retaining walls for the purpose of recreational vehicle or trailer storage pads per subsection 1000.15A2b of this ordinance can be located two feet (2') from the property line with the following conditions:

a. The retaining wall does not interfere with stormwater drainage or create a drainage problem for adjacent property.

b. The city engineer must provide administrative approval of the site plan, parking pad construction plans, filling, and drainage.

c. If a retaining wall encroaches into a drainage or utility easement, the city may remove the encroachment to utilize its easement and it will not be replaced by the city.

4. In rear yards: recreational and laundry drying equipment, arbors, and trellises, detached outdoor living rooms, and air conditioning or heating equipment, provided they are at a distance of five feet (5') from the rear lot line.

5. Structures used ornamentally, for gardening, or for private recreation purposes, and structures for essential services, all accessory to and customarily incidental to the principal use, are permitted in yards and courts, and solar energy systems not included in the floor area of the building are permitted in side yards; provided, that a side yard strip three feet (3') in width adjoining the side line of the lot shall be unobstructed by any structure or feature, except a fence or retaining wall.

6. Open work fire balconies and fire escapes may extend not more than three feet (3') into a required yard or court.

7. Chimneys and flues may extend not more than two feet (2') into a required yard or court.

8. On detached single-family or duplex dwelling homes constructed prior to January 1, 1989, add on entryways may extend into the front yard setback not exceeding five feet (5') and fifty (50) square feet.

9. Bay windows, bow windows and fireplaces may extend not more than two feet (2') into a required yard; provided, that a minimum eight foot (8') side yard setback is maintained, and that such encroachment does not exceed more than fifteen (15) square feet in area.

B. Where adjacent structures have front yard setbacks different from those required, the minimum front yard setback shall be no less than the average setback of the two (2) adjacent principal structures. If only one adjacent lot is occupied by a structure, the minimum front yard shall be the average of the required setbacks and the setback of such adjacent structure. In no case shall the setback requirement exceed the minimum established for the respective zoning district. (Ord. 1988-12, 12-19-1988; amd. Ord. 1977-17, 11-17-1997; Ord. 2004-01, 1-5-2004; Ord. 2009-018, 11-2-2009; Ord. 2015-02, 5-18-2015)

1100.6: MINIMUM FLOOR AREA PER DWELLING UNIT:

A. Single-Family Dwelling Units: Except as otherwise specified in the zoning district provisions or allowed as a conditional use permit, single-family homes, as classified below, shall have the following minimum floor areas per unit:

2 bedroom	960 square feet above ground
3 bedroom	1,040 square feet above ground

B. Multiple Dwelling Units: Except for elderly housing or as allowed by conditional use permit, living units classified as multiple dwelling shall have the following minimum floor areas per unit:

Efficiency units	500 square feet
1 bedroom units	700 square feet
2 or more bedroom units	An additional 80 square feet for each additional bedroom

C. Elderly (Senior Citizen) Housing: Living units classified as elderly (senior citizen) housing units, except as allowed by conditional use permit, shall have the following minimum floor areas per unit:

Efficiency units	440 square feet
1 bedroom	520 square feet

D. Double Bungalows, Quadraminiums And Townhouses: Except as otherwise specified in the zoning district provisions or allowed as a conditional use permit, double bungalows, quadraminiums and townhouses, as classified below, shall have the minimum floor area per one bedroom unit:

Double bungalow	650 square feet first floor above grade, plus 100 additional square feet for each additional bedroom
Quadraminiums, townhouses and similar multiple unit individual entry structures	600 square feet first floor above grade, plus 100 additional square feet for each additional bedroom

(Ord. 1988-12, 12-19-1988)

1100.7: EFFICIENCY APARTMENTS:
Except for elderly (senior citizen) housing, the number of efficiency apartments in a multiple dwelling shall not exceed twenty percent (20%) of the total number of apartments. In the case of elderly (senior citizen) housing, efficiency apartments shall not exceed thirty percent (30%) of the total number of apartments. (Ord. 1988-12, 12-19-1988)

1100.8: MINIMUM FLOOR AREA; COMMERCIAL AND INDUSTRIAL STRUCTURES:
Commercial and industrial buildings (principal structure) which are to be less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit as provided in chapter 400 of this ordinance. (Ord. 1988-12, 12-19-1988)

1100.9: MINIMUM LOT AREA PER UNIT:
The lot area per unit requirement for two-family, townhouses, apartments and planned unit developments shall be calculated on the basis of the total area in the project and as controlled by an individual and joint ownership.

One-family	As specified in zoning district provisions
Two-family	As specified in zoning district provisions
Townhouse and quadraminium and similar multiple unit, individual entry structures	5,000 square feet
Multiple-family	3,500 square feet or as specified in zoning district provisions
Elderly housing	1,000 square feet

(Ord. 1988-12, 12-19-1988)

1100.10: TWO-FAMILY, TOWNHOUSE, QUADRAMINIUM, MULTIPLE-FAMILY USES:

A. No single townhouse structure shall contain more than eight (8) dwelling units.

B. Minimum unit lot frontage for townhouses shall not be less than twenty feet (20').

C. The subdivision of base lots containing two-family dwellings, townhouses, or quadraminiums to permit individual private ownership of a single dwelling within such a structure is acceptable upon the approval by the council. Approval of a subdivision request is contingent on the following requirements:

1. Two-family, townhouses, and quadraminiums intended for owner occupancy shall be subdivided on an individual lot basis according to the provisions of chapter 2700, "Planned Unit Development", of this ordinance.

2. Prior to a two-family double bungalow dwelling, townhouse, or quadraminium subdivision, the base lot must meet all the requirements of the zoning district.

3. There shall be no more than one principal structure on a base lot in all residential districts. The principal structure on the unit lot created in a two-family, townhouse or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lot.

4. Permitted accessory uses, as defined by the zoning districts, are acceptable, provided they meet all the zoning requirements.

5. A property maintenance agreement must be arranged by the applicant and submitted to the city attorney for his review and subject to approval. The agreement shall ensure the maintenance and upkeep of the structure and the lots to meet minimum city standards. The agreement is to be filed with the Wright County recorder's office as a deed restriction against the title of each unit lot.

6. Separate public utility service shall be provided to each subdivided unit and shall be subject to the review and approval of the city engineer.

7. The subdivision is to be platted and recorded in conformance to requirements of the subdivision regulations of the city.

D. Subdivision of multiple-family, two-family duplex and other such units, is as follows:

1. The subdivision is to be platted and recorded in conformance with the requirements of the subdivision regulations of the city as applicable.

2. The subdivision shall comply with applicable cooperative or condominium laws of the state. (Ord. 1988-12, 12-19-1988)

1100.11: MINIMUM LOT AREA, UNSEWERED LOTS:
Lot sizes where public sewer is not available shall conform to the minimum requirements set forth below:

A. The minimum single-family lot size is ten (10) acres. This minimum lot size shall not apply to smaller separate parcels of record in separate ownership lawfully existing prior to January 1, 1989; provided, that it can be demonstrated by means satisfactory to the city that the smaller parcels will not result in ground water, soil or other contamination which may endanger the public health.

B. Apartments and multiple-family dwellings are not allowable uses.

C. Subject to other provisions of this ordinance, other uses may be allowed by conditional use permit. The minimum lot size for each principal use is ten (10) acres. A conditional use permit shall not be granted unless it can be demonstrated by means satisfactory to the city that the use:

1. Will not result in ground water, soil or other contamination which may endanger the public health.

2. Will not increase future city utility service demands and expense.

3. Will not jeopardize public safety and general welfare. (Ord. 1988-12, 12-19-1988)

1100.12: SINGLE-FAMILY DWELLINGS:
All single-family detached homes, except in the R-MH district, shall:

A. Be constructed upon a continuous perimeter foundation that meets the requirements of the state building code[1] .

B. Be not less than thirty feet (30') in length and not less than twenty four feet (24') in width over that entire minimum length. Width measurements shall not take account of overhang and other projections beyond the principal walls. Dwellings shall also meet the minimum floor area requirements as set out in this ordinance.

C. Have a minimum roof overhang of one foot (1').

D. Have an earth covered, composition, shingled or tiled roof.

E. Receive a building permit. The application for a building permit, in addition to other information required, shall indicate the height, size, design and the appearance of all elevations of the proposed building and a description of the construction materials proposed to be used. The exterior architectural design of a proposed dwelling may not be significantly different from the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor significantly different from the character of the surrounding neighborhood as to cause a significant depreciation in the property values of the neighborhood or adversely affect the public health, safety or general welfare.

F. Meet the requirements of the state building code[2] or the applicable manufactured housing code. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

AL849 Zoning Ordinance - Appendix A App A-1200

Notes

1 1. See section 10-2-1 of the city code.

2 2. See section 10-2-1 of the city code.

CHAPTER 1200

OFF STREET PARKING REQUIREMENTS

SECTION:

1200.1: Purpose

1200.2: Application Of Off Street Parking Regulations

1200.3: Site Plan Drawing Necessary

1200.4: General Provisions

1200.5: Maintenance

1200.6: Location

1200.7: Use Of Required Area

1200.8: Disability Parking

1200.9: Number Of Spaces Required

1200.10: Joint Facilities

1200.11: Off Site Parking

1200.1: PURPOSE:
The regulation of off street parking spaces in this ordinance is to alleviate or prevent congestion of the public rights of way and to promote the safety and general welfare of the public by establishing minimum requirements for off street parking of motor vehicles in accordance with the utilization of various parcels of land or structures. (Ord. 1988-12, 12-19-1988)

1200.2: APPLICATION OF OFF STREET PARKING REGULATIONS:
The regulations and requirements set forth herein shall apply to all off street parking facilities in all of the zoning districts of the city. (Ord. 1988-12, 12-19-1988)

1200.3: SITE PLAN DRAWING NECESSARY:
All applications for a building or an occupancy permit in all zoning districts shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of off street parking and loading spaces in compliance with the requirements set forth in this chapter. All site plans for single-family homes must provide for location of a two (2) stall garage, whether or not construction is intended. (Ord. 1988-12, 12-19-1988)

1200.4: GENERAL PROVISIONS:
A. Floor Area: The term "floor area", for the purpose of calculating the number of off street parking spaces required, shall be determined on the basis of the exterior floor area dimensions of the buildings, structures or use times the number of floors, minus ten percent (10%), except as may hereinafter be provided or modified.

B. Reduction Of Existing Off Street Parking Space Or Lot Area: Off street parking spaces or lot area existing upon the effective date hereof shall not be reduced in number or size unless said number or size exceeds the requirements set forth herein for a similar new use.

C. Nonconforming Structures: Should a nonconforming structure or use be damaged or destroyed by fire, it may be reestablished if elsewhere permitted in this ordinance; except, that in doing so, any off street parking which existed before shall be retained.

D. Change Of Use Or Occupancy Of Land: No change of use or occupancy of land already dedicated to a parking area or parking spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by this ordinance, except as specifically outlined in this chapter.

E. Change Of Use Or Occupancy Of Buildings: Any change of use or occupancy of any building or buildings, including additions thereto, requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this ordinance. Where an existing off street parking area must be altered in accordance with the number of parking stalls required herein, the following conditions will apply:

1. If the change of use or occupancy of the building/land requires the addition of fifty percent (50%) or more of the total parking spaces to that which currently exists (regardless of the type of surfacing which is present), the entire parking area shall be curbed, surfaced and landscaped as required herein.

2. If the change of use or occupancy of the building/land requires the addition of less than fifty percent (50%) of the total number of parking

spaces to which currently exists, the surfacing and curbing of the entire parking area shall be required as specified herein, only if the existing surface is gravel or is of a paved condition in need of major repair. An existing parking area which is surfaced with asphalt or concrete, which must be expanded to provide additional parking, shall not be required to include a perimeter curb unless a drainage need is found to exist by the city engineer.

F. Residential Area Parking: On and off street parking facilities accessory to residential use shall be utilized solely for the parking of licensed and operable passenger automobiles; vehicles having a classification 1-3 per MNDOT standards, with the exception for one (1) class 4 recreational vehicle that is stored on a residential lot in compliance with Section 1000.15.A.2 of the Albertville code shall be permitted. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or equipment or for the parking of automobiles belonging to the employees, owners, tenants or customers of business or manufacturing establishments.

G. Calculating Space:

1. When determining the number of off street parking spaces results in a fraction, each fraction shall constitute another space.

2. In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty two inches (22") of such seating facilities shall be counted as one seat for the purpose of determining requirements.

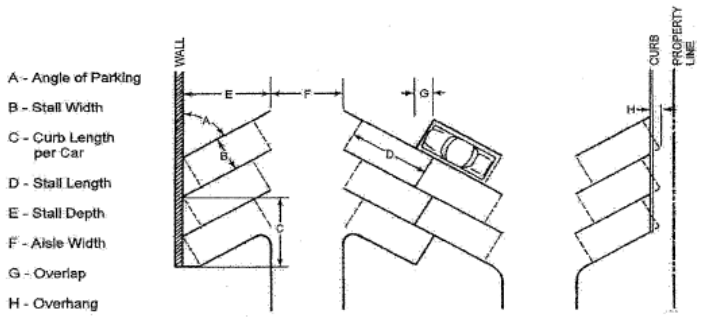
3. Except as provided for under joint parking and shopping centers, should a structure contain two (2) or more types of use, each use shall be calculated separately for determining the total off street parking spaces required.

H. Stall, Aisle And Driveway Design:

1. Except as otherwise provided for herein, all off street parking facilities shall conform to the following design standards:

PARKING LOT DIMENSIONS TABLE

Angle Of Parking (A)	Stall Width (B)	Curb Length Per Car (C)	Stall Depth (E)	Aisle Width (F)
Angle Of Parking (A)	Stall Width (B)	Curb Length Per Car (C)	Stall Depth (E)	Aisle Width (F)
0°	9'0"	23'0"	9'0"	12'0"
	9'6"	23'0"	9'6"	12'0"
	10'0"	23'0"	10'0"	12'0"
45°	9'0"	12'9"	19'10"	13'0"
	9'6"	13'5"	20'2"	13'0"
	10'0"	14'2"	20'6"	13'0"
60°	9'0"	10'5"	21'0"	18'0"
	9'6"	11'0"	21'3"	18'0"
	10'0"	11'6"	21'6"	18'0"
70°	9'0"	9'8"	21'0"	19'0"
	9'6"	10'2"	21'3"	18'6"
	10'0"	10'8"	21'3"	18'0"
90°	9'0"	9'0"	20'0"	24'0"
	9'6"	9'6"	20'0"	24'0"
	10'0"	10'0"	20'0"	24'0"



For commercial vehicles (in excess of 12,000 pounds or that exceed the length and/or width of the parking stalls described above) to be parked on site, the parking stalls and turning radiuses must be sized large enough to accommodate the oversized vehicles without encroachment into other required parking stalls or access aisles.

Parking stalls for oversized vehicles must be illustrated and approved with the site plan.

2. All off street parking facilities shall be designed and constructed with appropriate means of vehicular access to a public street.

3. The off street parking requirements may be furnished by providing a space so designed within the principal building or one structure attached thereto; however, unless provisions are made, no building permit shall be issued to convert said parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off street parking provisions of this ordinance.

4. Except in the case of single-family, two-family, townhouse and quadraminium dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single-family, two-family, townhouse and quadraminium dwellings, parking area design which requires backing into the public street is prohibited.

5. The required parking spaces serving existing single-family dwellings in the R-3 district may be designed for parking not more than two (2) vehicles in a tandem arrangement for each dwelling unit in order to comply with the requirements of this ordinance.

6. No curb cut access shall be located less than forty feet (40') from the intersection of two (2) or more street rights of way. This distance shall be measured from the intersection of lot lines.

7. Except in the case of single-family, two-family, townhouse and quadraminium dwellings, parking areas and their aisles shall be developed in compliance with the standards on the parking lot dimension table.

8. No curb cut access shall exceed twenty four feet (24') in width unless approved by the city engineer.

9. Except with special approval from the zoning administrator, curb cut openings shall be a minimum of five feet (5') from the side yard property line in all districts.

10. Driveway access curb openings on a public street, except for single-family, two-family, quadraminium and townhouse dwellings, shall not be located less than forty feet (40') from one another.

11. The grade elevation of any parking area shall not exceed five percent (5%).

12. Each property shall be allowed one curb cut access for each one hundred twenty five feet (125') of street frontage. All property shall be entitled to at least one curb cut. Single- family uses shall be limited to one curb cut access per property unless a conditional use permit is approved pursuant to chapter 400 of this ordinance.

13. All areas intended to be utilized for parking space and driveways shall be surfaced with bitumen or concrete to control dust and drainage, except in the case of farm dwellings/operations and as specified in subsection E of this section. Coal tar based sealants are prohibited materials in the construction or maintenance of paved parking spaces, driveways, or other paved areas on a property. Plans for surfacing and drainage of driveways and stalls for five (5) or more vehicles shall be submitted to the city engineer for his review, and the final drainage plan shall be subject to his/her written approval. In unique situations, where drainage or other factors warrant such, the city engineer may permit deviation from these surfacing requirements.

14. Except for single-family, two-family, townhouse and quadraminiums, all parking stalls shall be marked with white or yellow painted lines not less than four inches (4") wide.

15. Any lighting used to illuminate an off street parking area shall be hooded and so arranged as to reflect the light away from adjoining property, abutting residential uses and public rights of way and be in compliance with section 1000.10 of this ordinance.

16. Except for single-family, two-family, townhouse and quadraminiums, and except as specified in subsection E of this section, all open, off street parking shall have a continuous concrete perimeter curb (B-6-12) around the entire parking lot. Said curb barrier shall not be closer than five feet (5') to any lot line and shall meet other applicable parking and driveway setbacks specified in this ordinance.

17. a. Screening And Landscaping For Nonresidential Uses: All open, nonresidential off street parking areas of five (5) or more spaces shall be screened and landscaped from abutting or surrounding residential districts and from adjacent public streets in compliance with section 1000.7 of this ordinance; except, that the height of the screening or landscaping shall be four feet (4'). Grass plantings or landscaping shall be provided in all areas bordering the parking area not occupied by screening materials or other landscape amenities.

b. Screening And Landscaping For Residential Uses: All open, residential off street parking areas of five (5) or more spaces shall be screened and landscaped from adjacent public streets in compliance with section 1000.7 of this ordinance; except, that the height of the screening or landscaping shall be four feet (4'). Grass plantings or landscaping shall be provided in all areas bordering the parking area not occupied by screening materials or other landscape amenities.

c. Changes To Requirements: The city council shall have the authority to increase or decrease screening and landscaping requirements in cases where such action would prevent or alleviate visual conflicts or generally increase the aesthetic nature of the community.

18. Adequate space for snow storage shall be provided on the site so as not to reduce the required minimum number of parking spaces. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-10, 9-20-1993; Ord. 1997-17, 11-17-1997; Ord. 2002-3, 3-18-2002; Ord. 2003-29, 11-3-2003; 2005 Code; Ord. 2007-02, 3-19-2007; Ord. 2013-004, 6-17-2013; Ord. 2022-08, 6-20-2022)

1200.5: MAINTENANCE:
It shall be the joint and several responsibility of the lessee and owner of the principal use, uses or buildings to maintain, in a neat and adequate manner, the parking space, accessways, striping, landscaping and required screening. Coal tar based sealants shall be prohibited materials in the maintenance or reconditioning of paved parking spaces, driveways, or other paved areas on a property. (Ord. 2013-004, 6-17-2013)

1200.6: LOCATION:
All accessory off street parking facilities, as required by this ordinance, shall be located and restricted as follows:

A. Required accessory off street parking shall be on the same lot and under the same ownership as the principal use being served, except under the provisions of sections 1200.10 and 1200.11 of this chapter.

B. Except for single-family, two-family, townhouse and quadraminium dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited.

C. There shall be no off street parking within fifteen feet (15') of any street surface.

D. The boulevard portion of the street right of way shall not be used for parking.

E. Required accessory off street parking shall not be provided in required front yards or in required side yards in the case of corner lots in R-1, R-2, R-3, and R-4 districts.

F. Required off street parking areas for one- and two-family uses shall be in the rear yard, side yards, other than a required side yard, garage, carport, and upon a well defined driveway. A parking space in excess of that specifically required by this ordinance may be located in an area not to exceed twelve feet (12') in width abutting the driveway on one side only in the front yard. The parking area designated in the front yard abutting the driveway shall be surfaced with either concrete, asphalt or, in cases of existing gravel driveways, gravel may be used for such additional parking.

G. Commercial vehicle parking stalls shall not be located in the front or side yards abutting a street of commercial lots. (Ord. 1988-12, 12-19-1988; amd. 2005 Code; Ord. 2007-02, 3-19-2007)

1200.7: USE OF REQUIRED AREA:
Required accessory off street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles and/or storage of snow. (Ord. 1988-12, 12-19-1988)

1200.8: DISABILITY PARKING:
All parking associated with any building, structure or use shall be required to conform to the disability accessible parking standards pursuant to Minnesota state building code [1], as may be amended. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-29, 11-3-2003)

Notes

1 1. See section 10-2-1 of the city code.

1200.9: NUMBER OF SPACES REQUIRED:
The following minimum number of off street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth:

Auto repair, major bus terminal, taxi terminal, boats and marine sales and repair, bottling company, shop for a trade employing 6 or less people, garden supply store, building material sales in structure	8 spaces, plus 1 additional space for each 800 square feet of floor area over 1,000 square feet
Banquet, reception, conference or meeting facilities	1 space per 3 persons (based on the maximum capacity) when associated with and housed within hotels, motels, golf or country clubs, and restaurants
Boarding house	At minimum, 2 spaces, plus at least 1 space for each person for whom accommodations are provided for sleeping
Bowling alley	At least 5 parking spaces for each alley, plus additional spaces as may be required herein for related uses contained within the principal structure
Car wash (in addition to required magazining or stacking space):	
Automatic drive-through services	A minimum of 10 spaces, or 1 space for each employee on the maximum shift, whichever is greater
Motor fuel station car wash	0 in addition to that required for the station
Self-service	A minimum of 2 spaces
Church, theater, auditorium	At least 1 space for each 4 seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this ordinance
Community centers, health studios, libraries, private clubs, lodges	10 spaces, plus 1 for each 150 square feet in excess of 2,000 square feet of floor area in the principal structure
Drive-in establishment and convenience food	At least 1 space for each 35 square feet of gross floor area of service and dining area, but not less than 15 spaces. 2 additional spaces shall be added for drive-through services facilities and 1 space for each 80 square feet of kitchen/storage area
Elderly (senior citizen) housing	Reservation of area equal to 1 space per unit. Initial development is, however, required of only $^1/_2$ space per unit, and said number of spaces can continue until such time as the council considers a need for additional parking spaces has been demonstrated

Golf course	6 spaces for each golf hole, plus 1 space for each golf related employee (golf/assistant pro, pro shop cashier, club storage attendants, locker room attendants, caddies, maintenance crews, etc.) on maximum shift, plus 75 percent of the spaces otherwise required for restaurant/bar areas, office areas, banquet facilities and other accessory uses
Golf driving range	$1\frac{1}{2}$ spaces for each tee area (if individual tees are not marked, the maximum number of persons which may swing at the driving range at full capacity)
Manufacturing, fabricating, or processing of a product or material	1 space for each 350 square feet of floor area, plus 1 space for each company owned truck (if not stored inside principal building)
Motels, motor hotels, hotels	1 space per each rental unit, plus 1 space for each 10 units and 1 space for each employee on any shift
Motor fuel station	At least 4 spaces, plus 2 spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this ordinance
Multiple-family dwellings	At least 2 rent free spaces per unit, 1 of which must be enclosed
Office buildings, animal hospitals, professional offices and medical clinics	3 spaces, plus at least 1 space for each 200 square feet of floor area
Restaurants, cafes, private clubs serving food and/or drinks, bars, on sale nightclubs	At least 1 space for each 40 square feet of gross floor area of dining and bar area and 1 space for each 80 square feet of kitchen area
Retail sales and service business with 50 percent or more of gross floor area devoted to storage, warehouse and/or industry	At least 8 spaces or 1 space for each 200 square feet devoted to public sales or service, plus 1 space for each 500 square feet of storage area; or at least 8 spaces or 1 space for each employee on the maximum shift, whichever is appropriate
Retail store and service establishment	At least 1 space for each 200 square feet of floor area
Sanitariums, convalescent home, rest home, nursing home or day nurseries	4 spaces, plus 1 for each 3 beds for which accommodations are offered
School, elementary and junior high	At least 1 parking space for each classroom, plus 1 additional space for each 50 student capacity
School, high school through college and private and day or church schools	At least 1 space for each 7 students based on design capacity, plus 1 for each 3 classrooms
Shopping centers	$5\frac{1}{2}$ spaces per each 1,000 square feet of gross leasable floor area (exclusive of common areas)
Single-family (including manufactured housing [1]), two-family, townhouse and quadraminium units	2 enclosed spaces per unit (minimum garage size of 480 square feet). Upon application, the city council may allow the construction of the garage for a single-family dwelling to be delayed for a period not to exceed 3 years from date of occupancy
Undertaking establishments	At least 20 spaces for each chapel or parlor, plus 1 space for each funeral vehicle maintained on the premises. Aisle space shall also be provided off the street for making up a funeral procession

Warehousing, storage or handling of bulk goods	That space which is solely used as office shall comply with the office use requirements and 1 space per each 1,000 square feet of floor area, plus 1 space for each employee on maximum shift and 1 space for each company owned truck (if not stored inside principal building)

A. Other Uses: Other uses not specifically mentioned herein or unique cases shall be determined on an individual basis by the council. Factors to be considered in such determination shall include (without limitation) size of buildings, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.

B. Space Reductions: Subject to the review and processing of a conditional use permit as regulated by chapter 400 of this ordinance, the city may reduce the number of required off street parking spaces when the use can demonstrate in documented form a need which is less than required. In such situations, the city may require land to be reserved for parking development should use or needs change.

C. B-4 Parking Requirements: Within the B-4 zoning district, the city may approve development and uses which do not comply with the required number of parking spaces as a conditional use permit; provided, that:

1. A development agreement running with the land is completed in which it is agreed that the property in question is financially responsible for its proportionate share of the city sponsored and provided parking space construction, maintenance, and parking site acquisition for on street, lot and/or ramp parking. Said responsibility shall be determined on the basis of the property's parking space shortage based upon ordinance requirements, in relationship to the total parking space shortage, as defined by this chapter for a defined service and benefit area. The "service and benefit area" shall include all properties which benefit from the available public parking serving a particular retail and commercial neighborhood or district.

2. The amount of parking provided on the property in question is the maximum amount possible, taking into account the use and design objectives of the B-4 district as outlined by this ordinance and the comprehensive plan.

3. The parking shortages created by the development are not premature or in excess of the supply which can be provided by the city through a public parking system on a long term basis.

4. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-20, 12-20-1993; Ord. 1997-17, 11-17-1997; Ord. 2003-29, 11-3-2003)

Notes

[1] 1. See also subsection 4100.5C7 of this ordinance.

1200.10: JOINT FACILITIES:

The council may approve a conditional use permit for one or more businesses to provide the required off street parking facilities by joint use of one or more sites where the total number of spaces provided is less than the sum of the total required for each business should they provide them separately. To qualify for joint parking, the following conditions shall apply:

A. Entertainment Centers And Restaurants: Up to fifty percent (50%) of the parking facilities required for a theater, bowling alley, dance hall, bar or restaurant may be supplied by the off street parking facilities provided by types of uses specified as primarily daytime uses in subsection D of this section.

B. Nighttime And Sunday Uses: Up to fifty percent (50%) of the off street parking facilities required for any use specified under subsection D of this section as primarily daytime uses may be supplied by the parking facilities provided by the following nighttime or Sunday uses: auditoriums incidental to a public or parochial school, churches, bowling alleys, dance halls, theaters, bars, apartments or restaurants.

C. Churches And Schools: Up to eighty percent (80%) of the parking facilities required by this ordinance for a church or for an auditorium incidental to a public or parochial school may be supplied by the off street parking facilities provided by uses specified in subsection D of this section as primarily daytime uses.

D. Daytime Uses: For the purposes of this chapter, the following uses are considered as primarily daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing, wholesale and similar uses.

E. General Conditions Required For Joint Use Facilities:

1.The building or use for which application is being made to utilize the off street parking facilities provided by another building or use shall be located within three hundred feet (300') of such parking facilities.

2. Documentation as specified by the city shall be submitted demonstrating that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses (for which joint use of off street parking facilities is proposed).

3. A properly drawn legal instrument, executed by the parties concerned for joint use of off street parking facilities, duly approved as to form and manner of execution by the city attorney, shall be filed with the city administrator and recorded with the Wright County recorder. Such a document shall include all provisions regarding any access or use easements related to the properties and parking areas in question. (Ord. 1988-12, 12-19-1988)

1200.11: OFF SITE PARKING:

A. Any off site parking which is used to meet the requirements of this ordinance shall be a conditional use as regulated by chapter 400 of this ordinance and shall be subject to the conditions listed in this section.

B. Off site parking shall be developed and maintained in compliance with all requirements and standards of this ordinance.

C. The parking lot is to be used only for the parking of passenger automobiles of employees, customers or guests of the person or firm controlling and operating the lot, said person to be responsible for its maintenance.

D. The parking lot is not to be used for sales, repair work or servicing of any kind.

E. Reasonable access from off site parking facilities to the use being served shall be provided.

F. Except as provided below, the site used for meeting the off site parking requirements of this ordinance shall be under the same ownership as the principal use being served or under public ownership.

G. Off site parking for multiple-family dwellings shall not be located more than one hundred feet (100') from any normally used entrance of the principal use served.

H. No advertising sign or material is to be located on the property where the parking lot is located.

I. All parking is to be kept back of the building setback line by barriers unless otherwise specifically authorized by the council.

J. Except as provided below, off site parking for nonresidential uses shall not be located more than three hundred feet (300') from the main public entrance of the principal use being served.

K. Any use which depends upon off site parking to meet the requirements of this ordinance shall maintain ownership and parking utilization of the off site location until such time as on site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

L. Compliance with off street parking requirements provided through leased off site parking may be approved by the council, subject to the following conditions:

1. The lease shall specify the total number and location of parking spaces under contract, and this number, when added to any on site parking required, must be equal to the total number of parking spaces required.

2. The lease shall document and specify easements related to the properties in question and the parking areas.

3. The lease instrument shall legally bind all parties to the lease and provide for amendment or cancellation only upon written approval from the city.

4. The lease agreement shall incorporate a release of liability for the city and from any provisions that are deemed necessary to ensure compliance with the intent of this ordinance, as recommended by the city attorney.

M. Any such other conditions as may be deemed necessary by the city council to protect the welfare and character of the nearby land uses. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

CHAPTER 1300

OFF STREET LOADING

SECTION:

1300.1: Purpose

1300.2: Location

1300.3: Site Plan Drawing Necessary

1300.4: General Provisions

1300.5: Maintenance

1300.6: Surfacing

1300.7: Accessory Use; Parking And Storage

1300.8: Screening

1300.9: Size

1300.10: Number Of Loading Berths Required

1300.1: PURPOSE:
The regulation of loading spaces in this ordinance is to alleviate or prevent congestion of the public right of way so as to promote the safety and general welfare of the public by establishing minimum requirements for off street loading and unloading from motor vehicles in accordance with the specific and appropriate utilization of various parcels of land or structure. (Ord. 1988-12, 12-19-1988)

1300.2: LOCATION:
A. Off Street: All required loading berths shall be off street and located on the same lot as the building or use to be served.

B. Distance From Intersection: All loading berth curb cuts shall be located, at a minimum, fifty feet (50') from the intersection of two (2) or more street rights of way. This distance shall be measured from the property line.

C. Distance From Residential Use: No loading berth shall be located closer than one hundred feet (100') from a residential district unless within a structure.

D. Prohibited In Front Yards: Loading berths shall not occupy the required front yard setbacks.

E. Conditional Use Permit Required: A conditional use permit shall be required for new loading berths added to an existing structure, where the loading berths are located at the front or at the side of the building on a corner lot.

1. Pedestrians: Loading berths shall not conflict with pedestrian movement.

2. Visibility: Loading berths shall not obstruct the view of the public right of way from off street parking access.

3. General Compliance: Loading berths shall comply with all other requirements of this ordinance.

F. Traffic Interference: Each loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic. (Ord. 1988-12, 12-19-1988)

1300.3: SITE PLAN DRAWING NECESSARY:

All applications for a building or an occupancy permit in all zoning districts where a loading berth is required by section 1300.10 of this chapter shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of loading spaces in compliance with the requirements set forth in this chapter. (Ord. 1988-12, 12-19-1988)

1300.4: GENERAL PROVISIONS:

A. Reduction Of Existing Off Street Loading Spaces Or Lot Area: Off street loading spaces or lot area existing upon the effective date hereof shall not be reduced in number or size unless said number or size exceeds the requirements set forth herein for a similar new use.

B. Nonconforming Structures: Should a nonconforming structure or use be damaged or destroyed by fire, it may be reestablished if elsewhere permitted in this ordinance; except, that in doing so, any off street loading space which existed before shall be retained.

C. Change Of Use Or Occupancy Of Land: No change of use or occupancy of land already dedicated to loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for loading berth requirements below the minimum prescribed by this ordinance.

D. Change Of Use Or Occupancy Of Buildings: Any change of use or occupancy of any building or buildings, including additions thereto, requiring additional loading berths shall not be permitted until there is furnished such additional berths as required by this ordinance. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

1300.5: MAINTENANCE:

It shall be the joint and several responsibility of the lessee and owner of the principal use, uses or buildings to maintain in a neat and adequate manner, the loading berth(s), accessways, striping, landscaping and required fences. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

1300.6: SURFACING:

All loading berths and accessways shall be improved with not less than six inch (6") class 5 base and two inch (2") bituminous surfacing to control the dust and drainage according to a plan submitted to and subject to the approval of the city engineer. Coal tar based sealants shall be prohibited materials in the maintenance or reconditioning of paved loading areas, driveways, or other paved areas on a property. (Ord. 2013-004, 6-17-2013)

1300.7: ACCESSORY USE; PARKING AND STORAGE:

Any space allocated as a required loading berth or access drive so as to comply with the terms of this ordinance shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space requirements to meet the off street parking requirements. (Ord. 1988-12, 12-19-1988)

1300.8: SCREENING:

Except in the case of multiple dwellings, all loading areas shall be screened and landscaped from abutting and surrounding residential uses in compliance with section 1000.7 of this ordinance. (Ord. 1988-12, 12-19-1988)

1300.9: SIZE:

A. Nonresidential Developments: Unless otherwise specified in this ordinance, the first loading berth shall be not less than seventy feet (70') in length, and additional berths required shall be not less than thirty feet (30') in length, and all loading berths shall be not less than ten feet (10') in width and fourteen feet (14') in height, exclusive of aisle and maneuvering space.

B. Multiple-Family Dwellings: The size and location of the required loading berths shall be subject to the review and approval of the city engineer. (Ord. 1988-12, 12-19-1988)

1300.10: NUMBER OF LOADING BERTHS REQUIRED:

The number of required off street loading berths shall be as follows:

A. Commercial And Industrial Uses: All buildings shall have at least one off street loading berth. Buildings which are ten thousand (10,000) square feet or more shall have, at a minimum, two (2) loading berths.

B. Multiple-Family Dwellings: One off street loading berth shall be provided for each principal dwelling structure in excess of four (4) units.

C. Other Uses: Other uses not specifically mentioned herein or unique cases shall be determined on an individual basis by the council. Factors to be considered in such determination shall include (without limitation) size of buildings, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.

D. Space Reductions: Subject to the review and processing of a conditional use permit as regulated by chapter 400 of this ordinance, the city may reduce the number of required off street loading spaces when the use can demonstrate in documented form a need which is less than required. In such situations, the city may require land to be reserved for loading space development should use or needs change.

E. B-4 District Loading Requirements: Within the B-4 district, the city may approve development and uses which do not comply with the required number of loading spaces as a conditional use permit; provided, that:

1. A development agreement running with the land is completed in which it is agreed that the property in question is financially responsible for its proportionate share of the city sponsored and provided loading space construction, maintenance, and loading site acquisition for on street or lot loading space. Said responsibility shall be determined on the basis of the property's loading space shortage based upon ordinance requirements, in relationship to the total loading space shortage, as defined by this chapter for a defined service and benefit area. The "service and benefit area" shall include all properties which benefit from the available loading space serving a particular retail and commercial neighborhood or district.

2. The amount of loading space provided on the property in question is the maximum amount possible, taking into account the use and design objectives of the B-4 district as outlined by this ordinance and the comprehensive plan.

3. The loading space shortages created by the development are not premature or in excess of the supply which can be provided by the city through a public loading system on a long term basis.

4. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met. (Ord. 1988-12, 12-19-1988)

CHAPTER 1400

BUILDING RELOCATION

SECTION:

1400.1: Review Process

1400.2: Conditional Use Permit Exceptions

1400.3: Submission Requirements

1400.4: Performance Standards

1400.5: Performance Security

1400.1: REVIEW PROCESS:
A conditional use permit shall be required for all permanent relocation of residences and for the relocation of any building requiring a permit in the city. The relocation of any building or structure on a lot or onto another lot within the city shall be subject to the requirements, regulations and conditions of chapter 400 of this ordinance as well as section 1400.4 of this chapter. (Ord. 2004-18, 12-20-2004)

1400.2: CONDITIONAL USE PERMIT EXCEPTIONS:
The following uses do not need a conditional use permit:

A. Relocated sheds, farm buildings, cribs and other farm structures within one property.

B. Relocation of construction sheds to be located on a lot for less than eighteen (18) months.

C. Residential sheds less than one hundred fifty (150) square feet in area. (Ord. 2004-18, 12-20-2004)

1400.3: SUBMISSION REQUIREMENTS:
In addition to the submission requirements of chapter 400 of this ordinance, the following information shall be required for a building relocation conditional use permit:

A. Photographs showing all sides of the structure to be moved and a proposed site plan of the lot on which the structure is to be located.

B. A map indicating location of surrounding lots and structures where the building is proposed to be relocated.

C. A map showing the route of travel of the structure to be relocated.

D. State license of the building mover.

E. Insurance information from the building mover.

F. Dates and time of building moving. (Ord. 2004-18, 12-20-2004)

1400.4: PERFORMANCE STANDARDS:
A. Upon relocation, the building shall comply with the applicable requirements of the state building code.

B. The proposed relocated building shall comply with the character of the neighborhood in which it is being relocated as determined by the city council.

C. The relocated use will not result in a depreciation of neighborhood or adjacent property values.

D. The relocated structure shall be similar to the market valuation of adjacent principal structures as determined by the city or county assessor.

E. The relocated structure shall be ready for occupancy within six (6) months from the date of location on the site.

F. The travel route of the building move must reflect proper capacity of the street with regard to load bearing capacity, will not interfere with utilities, and will not create congestion or traffic safety issues on the public street. (Ord. 2004-18, 12-20-2004; amd. 2005 Code)

1400.5: PERFORMANCE SECURITY:
A performance security shall be provided to the city as specified in section 400.6 of this ordinance. (Ord. 2004-18, 12-20-2004)

CHAPTER 1500

SITE/BUILDING PLAN REVIEW

SECTION:

1500.1: Purpose

1500.2: Plan Required

1500.3: Council Action

1500.4: Minor Projects

1500.5: Major Projects

1500.6: Plan Modifications

1500.7: Plan Agreements

1500.8: Lapse Of Approval

1500.9: Building Code

1500.10: Enforcement

1500.1: PURPOSE:
The purpose of this chapter is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through his officially submitted plan documents. (Ord. 1988-12, 12-19-1988)

1500.2: PLAN REQUIRED:
In addition to other plan requirements outlined in this ordinance, site and construction plans that include the information requirements of section 400.4 of this ordinance will be required and shall be submitted to and approved by the building official prior to the issuance of any building permit. An application and fee, as established in section 3-1-3 of the city code, shall be required for all site and building plan reviews. (Ord. 2017-01, 1-3-2017)

1500.3: COUNCIL ACTION:

A. Except for agricultural development in the A-1 and A-2 districts, single-family detached dwellings, two-family attached dwellings and minor projects, additions, or alterations as determined by the zoning administrator, all building and site plans for multiple-family, commercial or industrial construction shall be subject to review by the planning commission and approval by the council.

B. In all cases where developments are proposed for locations adjacent to I-94, a site plan for such proposed development shall be subject to review by the planning commission and approval by the council. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-1, 2-5-1996)

1500.4: MINOR PROJECTS:

A. Qualification: Site plans may be classified as minor projects and may be administratively approved by the zoning administrator in lieu of planning commission review and city council approval only for sites which meet the following criteria, except as otherwise expressly provided by this ordinance:

1. Sites shall be in multiple-family, commercial, or industrial zoning districts, including those within planned unit developments.

2. All sites must be in conformance with the city's official comprehensive plan classification for the property.

3. All sites must be legal parcels of record at the time of application.

4. All applications for site plan approval must be complete and in full accordance with the requirements of this ordinance and all applicable fees shall be paid as established in section 3-1-3 of the Albertville City Code.

5. All development proposals and site plan layouts must meet or exceed the standards of all applicable codes, ordinances, and policies and must be free of any variances from those standards.

6. Only applications for uses explicitly classified as permitted uses within the respective zoning districts of this ordinance are eligible for administrative approval.

B. Procedure: Administrative approval of eligible site plans shall be subject to the following procedural requirements:

1. Plan review will be in accordance with established procedures including the coordinated review by city staff and/or consultants as determined by the zoning administrator.

2. Site plans involving properties within approved planned unit developments shall be subject to applicable evaluation criteria in chapters 2700 and 4800 of this ordinance.

3. Any variance, conditional use permit, or other special permits requiring public hearings will automatically require the entire application to be processed in accordance with the planning commission review and city council approval provisions of this chapter.

4. Administrative approval, including all applicable conditions and requirements, shall be made in writing by the zoning administrator, and the applicant, in addition to all other applicable requirements, shall submit a written acknowledgment of that approval prior to the commencement of any development and prior to the issuance of any permits.

5. Any unresolved dispute as to administrative interpretation of city code, ordinance, or policy requirements may be formally appealed pursuant to chapter 600 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-1, 2-5-1996; Ord. 2019-13, passed 12-16-2019)

1500.5: MAJOR PROJECTS:

A. Qualifications: Any project not classified or qualified as a minor project shall be classified as a major project.

B. Procedures: Pursuant to Minnesota statutes section 15.99, an application for site plan approval shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended pursuant to statute or a time waiver is granted by the applicant. If applicable, processing of the application through required state or federal agencies shall extend the review and decision making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional city requirements are as follows:

1. Request for site plan approval, as provided within this ordinance, shall be filed with the zoning administrator on an official application form, to be accompanied by a fee established by section 3-1-3 of the city code. Such application shall also be accompanied by detailed written and graphic materials as outlined in the site and building plan review checklist provided by the city and must fully explain the proposed change, development or use.

2. The zoning administrator shall instruct the appropriate staff persons or consultants to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the planning commission and the city council. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-1, 2-5-1996; 2005 Code)

1500.6: PLAN MODIFICATIONS:

A. Minor Changes: Proposed minor structural additions involving ten percent (10%) or less of the total existing floor area and proposed minor site expansions or modifications involving ten percent (10%) or less of the total existing site area which meet all ordinance requirements may be approved by the zoning administrator prior to a building permit being issued and shall not require planning commission or city council review, subject to the following:

1. This chapter shall apply in the cases of new developments which have received city council approval, but for which building permits have yet to be taken; and to existing developments on file which have city council approved site plans.

2. Compliance with all ordinance requirements shall be construed to include all adopted policies and codes.

3. Any variances from ordinance and policy requirements shall be subject to the established review and hearing procedures for plan and variance approval.

4. Plans submitted for minor structural additions or minor site alterations under the terms of this chapter shall be the same as those required for site plan approval.

5. A copy of the plans approved under this chapter shall be appropriately certified by the zoning administrator and placed on file with the city council approved plans.

B. Major Changes:

1. Plans not qualifying as minor shall be classified as major.

2. An amended site plan involving major changes shall be applied for and administered in a manner similar to that required for a new site plan. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-1, 2-5-1996)

1500.7: PLAN AGREEMENTS:

All site and construction plans officially submitted to the city shall be treated as a formal agreement between the building contractor and the city.

Once approved, no changes, modifications or alterations shall be made to any plan detail, standard or specifications without prior submission of a plan modification request to the building official for his review and approval. (Ord. 1988-12, 12-19-1988)

1500.8: LAPSE OF APPROVAL:
Unless otherwise specified by the zoning administrator or city council, as may be applicable, the site plan approval shall become null and void one year after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the approved plan. The property owner or applicant shall have the right to submit an application for time extension in accordance with this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-1, 2-5-1996)

1500.9: BUILDING CODE:

The review and approval of site improvements pursuant to the requirements of city adopted building and fire codes[1] shall be in addition to the site plan review process established under this chapter. The site plan approval process does not imply compliance with the requirements of these building and fire codes. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-1, 2-5-1996)

Notes

[1] 1. See section 10-2-1 and title 10, chapter 3 of the city code for building and fire codes.

1500.10: ENFORCEMENT:
The zoning administrator or building official shall have the authority to order the stopping of any and all site improvement activities when and where a violation of the provisions of this chapter has been officially documented by the building official. (Ord. 1988-12, 12-19-1988)

CHAPTER 1600

HOME OCCUPATIONS

SECTION:

1600.1: Purpose

1600.2: Application

1600.3: Procedures And Permits

1600.4: Requirements; General Provisions

1600.5: Nonconforming Use

1600.6: Inspection

1600.1: PURPOSE:
The purpose of this chapter is to prevent unfair competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. In addition, this chapter is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily "more sensitive" home occupations so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process. (Ord. 1988-12, 12-19-1988)

1600.2: APPLICATION:
Subject to the nonconforming use provisions of this ordinance, all occupations conducted in the home shall comply with the provisions of this chapter. This chapter shall not be construed, however, to apply to home occupations accessory to farming. (Ord. 1988-12, 12-19-1988)

1600.3: PROCEDURES AND PERMITS:
A. Permitted Home Occupation: Any permitted home occupation, as defined in this chapter, shall be a permitted accessory use without requiring the issuance of a city license provided they comply with the performance standards of subsections 1600.4A and B of this chapter.

B. Special Home Occupation: Any home occupation which does not meet the specific requirements for a permitted home occupation, as defined in this chapter, shall require a special home occupation license. Such license shall be issued subject to the conditions of this chapter, other applicable city regulations and state law. This license may be issued by the zoning administrator or his agent based upon proof of compliance with the provisions of this chapter. Application for the permitted home occupation license shall be accompanied by a fee as established in section 3-1-3 of the city code. If the administrator denies a special home occupation license to an applicant, the applicant may appeal the decision to the city council, which shall make the final decision. The license shall remain in force and effect until such time as there has been a change in conditions or until such time as the provisions of this chapter have been changed. At such time as the city has reason to believe that either event has taken place, a public hearing shall be held before the planning commission. The council shall make a final decision on whether or not the permit holder is entitled to the license.

C. Declaration Of Conditions: The zoning administrator may impose such conditions of the granting of a special home occupation license as may be necessary to carry out the purpose and provisions of this chapter.

D. Effect Of License: A special home occupation license may be issued for a period of one year, after which the license may be renewed for periods of up to three (3) years each. Each application for license renewal shall, however, be processed in accordance with the procedural requirements of the initial special home occupation license.

E. Lapse Of Special Home Occupation License By Nonuse: Whenever, within one year after granting a license, the use as permitted by the license shall not have been initiated, then such license shall become null and void unless a petition for extension of time in which to complete the work has been granted by the council. Such extension shall be requested in writing and filed with the zoning administrator at least thirty (30) days before the expiration of the original license. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to initiate the use. Such petition shall be presented to the planning commission for a recommendation and to the council for a decision.

F. Reconsideration: Whenever an application for a license has been considered and denied by the council, a similar application for a license affecting substantially the same property shall not be considered again by the planning commission or council for at least six (6) months from the date of its denial unless a decision to reconsider such matter is made by not less than four- fifths ($^4/_5$) vote of the entire city council.

G. Reiteration Of License: An applicant shall not have a vested right to a license renewal by reason of having obtained a previous license. In applying for and accepting a license, the license holder agrees that his monetary investment in the home occupation will be fully amortized over the life of the license and that a license renewal will not be needed to amortize the investment. Each application for the renewal of a license will be reviewed without taking into consideration that a previous license has been granted. The previous granting or renewal of a license shall not constitute a precedent or basis for the renewal of a license. (Ord. 1988-12, 12-19-1988; amd. 2005 Code; Ord. 2014-03, 2-3-2014; Ord. 2017-01, 1-3-2017)

1600.4: REQUIREMENTS; GENERAL PROVISIONS:
All home occupations shall comply with the following general provisions and, according to definition, the applicable requirement provisions:

A. General Provisions:

1. No home occupation shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.

2. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.

3. Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.

4. No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.

5. There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.

6. The home occupation shall meet all applicable fire and building codes[1].

7. There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling with the exception of directional and identification/business signs to the extent authorized by the provisions of the city code relating to signs[2].

8. All home occupations shall comply with all Albertville city regulations.

9. No home occupation shall be conducted between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. unless said occupation is contained entirely within the principal building and will not require any on street parking facilities.

10. Home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway, where no vehicle is parking closer than fifteen feet (15') from the curb line or edge of paved surface.

B. Requirements; Permitted Home Occupation:

1. No person other than those who customarily reside on the premises shall be employed.

2. All permitted home occupations shall be conducted entirely within the principal building and may not be conducted in an accessory building.

3. Permitted home occupations include, and are limited to: art studio, dressmaking, secretarial services, state licensed daycare facilities serving fourteen (14) or fewer persons, foster care, professional offices and teaching with musical, dancing and other instructions which consists of no more than one pupil at a time, and similar uses.

4. The home occupation shall not involve any of the following: repair service or manufacturing which requires equipment other than found in a home; teaching which customarily consists of more than one pupil at a time; over the counter sale of merchandise produced off the premises.

C. Requirements; Special Home Occupation:

1. No person, other than a resident, shall conduct the special home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for nonresident assistance and that this exception would not compromise the intent of this ordinance.

2. Examples of special home occupations include: barber and beauty services, state licensed daycare facilities serving fourteen (14) or fewer persons with two (2) or more employees, photography studio, group lessons, saw sharpening, small appliances and small engine repair and the like.

3. The special home occupation may involve any of the following: stock in trade incidental to the performance of the service, repair service or manufacturing which requires equipment other than customarily found in a home, the teaching with musical, dancing and other instruction of more than one pupil at a time.

4. Special home occupations may be allowed to accommodate their parking demand through utilization of on street parking. In such case where on street parking facilities are necessary, however, the council shall maintain the right to establish the maximum number of on street spaces permitted and increase or decrease that maximum number when and where changing conditions require additional review. (Ord. 1988-12, 12-19-1988; amd. 2005 Code; Ord. 2014-03, 2-3-2014)

Notes

1 1. See section 10-2-1 and title 10, chapter 3 of the city code.

2 2. See title 10, chapter 7 of the city code.

1600.5: NONCONFORMING USE:
Existing home occupations lawfully existing on the effective date hereof may continue as nonconforming uses. They shall, however, be required to obtain licenses for their continued operation. Any existing home occupation that is discontinued for a period of more than one hundred eighty (180) days, or is in violation of the provisions of this ordinance under which it was initially established, shall be brought into conformity with the provisions of this chapter. (Ord. 1988-12, 12-19-1988)

1600.6: INSPECTION:
The city hereby reserves the right upon issuing any home occupation license to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this chapter or any conditions additionally imposed. (Ord. 1988-12, 12-19-1988)

CHAPTER 1700

DAYCARE NURSERY FACILITIES

SECTION:

1700.1: Purpose

1700.2: Application

1700.3: Declaration Of Conditions

1700.4: Site Plan Drawing Necessary

1700.5: General Provisions

1700.6: Nonconforming Use

1700.7: Inspection

1700.1: PURPOSE:
The regulation of daycare nursery facilities in this ordinance is to establish standards and procedures by which daycare facilities can be conducted within the city without jeopardizing the health, safety and general welfare of the daycare participants and/or the surrounding neighborhood. This chapter establishes the city's minimum requirements for the establishment of a daycare facility which are not defined as permitted uses by state statute or which are operated in uses other than single-family homes. Daycare facilities other than those defined permitted uses by state statutes which operate in a single-family dwelling as an accessory use shall be subject to chapter 1600 of this ordinance and processed as a home occupation. (Ord. 1988-12, 12-19-1988)

1700.2: APPLICATION:
Daycare nursery facilities shall be considered a permitted conditional use within all the zoning districts of the city and shall be subject to the regulations and requirements of chapter 400 of this ordinance. In addition to the city regulations, all daycare facility operations shall comply with the minimum requirements of the Minnesota department of human services regulations, as may be amended. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

1700.3: DECLARATION OF CONDITIONS:
The planning commission may recommend and the council may impose such conditions on the granting of a daycare facility conditional use permit as may be necessary to carry out the purpose and provisions of this chapter. (Ord. 1988-12, 12-19-1988)

1700.4: SITE PLAN DRAWING NECESSARY:
All applications for a daycare facility conditional use permit shall be accompanied by a site plan drawn to scale and dimension, displaying the information required by chapter 400 of this ordinance. (Ord. 1988-12, 12-19-1988)

1700.5: GENERAL PROVISIONS:
Daycare facilities shall be allowed as a principal or as an accessory use; provided, that the daycare facilities meet all the applicable provisions of this chapter.

A. Lot Requirements And Setbacks: The proposed site for a daycare facility must have a minimum lot area as determined by the Minnesota department of human services. The city council may increase the required lot area in those cases where such an increase is considered necessary to ensure compatibility of activities and maintain the public health, safety and general welfare. The daycare facility must meet the minimum setback requirements of the respective zoning district.

B. Lot Requirements And Setbacks; Accessory Use: The site of the proposed daycare facility as an accessory use shall meet all area and setback provisions of the respective zoning district in which the facility is to be located.

C. Sewer And Water: All daycare facilities shall have access to municipal sewer and water or have adequate private sewer and water to protect the health and safety of all persons who occupy the facility.

D. Screening: Where the daycare facility is in or abuts any commercial or industrial use or zoned property, the daycare facility shall provide screening along the shared boundary of such uses. All of the required fencing and screening shall comply with the fencing and screening requirements of sections 1000.6 and 1000.7 of this ordinance.

E. Parking:

1. For daycare facilities as a principal use, there shall be adequate off street parking which shall be located separately from any outdoor play area and shall be in compliance with chapter 1200 of this ordinance. Parking areas shall be screened from view of surrounding and abutting residential uses in compliance with section 1000.7 of this ordinance.

2. When a daycare facility is an accessory use within a structure containing another principal use, each use shall be calculated separately for determining the total off street parking spaces required.

F. Loading: For daycare facilities as a principal use, one off street loading space in compliance with chapter 1300 of this ordinance shall be provided.

G. Signage: All signing and informational or visual communication devices shall be in compliance with the city regulations relating to signs[1].

H. Compliance With State Requirements: The structure and operation shall be in compliance with state department of human services regulations and be licensed accordingly. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

Notes

1. See title 10, chapter 7 of the city code.

1700.6: NONCONFORMING USE:
Existing daycare facilities lawfully existing on the effective date hereof may continue as nonconforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing daycare facility that is discontinued for a period of more than one hundred eighty (180) days, or is in violation of the provisions of the ordinance under which it was initially established, shall be brought into conformity with the provisions

of this chapter. (Ord. 1988-12, 12-19-1988)

1700.7: INSPECTION:
At any and all reasonable hours, with or without notice, the city hereby reserves the right, upon issuing any daycare facility conditional use permit, to inspect the premises in which the operation is being conducted to ensure compliance with the provisions of this chapter or any conditions additionally imposed. (Ord. 1988-12, 12-19-1988)

CHAPTER 1800

LAND FILLING OPERATIONS

SECTION:

1800.1: Permit Required

1800.2: Application And Required Information

1800.3: Technical Reports

1800.4: Issuance Of Permit

1800.5: Conditions Of Operation

1800.6: Security

1800.7: Failure To Comply

1800.8: Completion Of Operation

1800.9: Land Fills In Process

1800.1: PERMIT REQUIRED:
Any person who proposes to add land fill in the following manner shall apply to the city for a land fill permit:

A. Any deposit of fill within a drainage or utility easement.

B. Any deposit of fill within a natural drainageway.

C. Any deposit of fill within ten feet (10') of a property line.

D. Adding land fill in excess of twenty (20) cubic yards. (Ord. 2009-020, 10-5-2009)

1800.2: APPLICATION AND REQUIRED INFORMATION:
A. Any person desiring a permit hereunder shall present an application, and a fee as established in section 3-1-3 of the city code, on such forms as shall be provided by the zoning administrator requiring the following information:

1. The name and address of the applicant.

2. The name and address of the owner of the land.

3. The address and legal description of the land involved.

4. The purpose of the land fill.

5. A description of the source, type, and amount of fill material to be placed upon the premises.

6. The highway, street or streets, or other public ways in the city upon and along which any material is to be hauled or carried.

7. An estimate of the time required to complete the land fill.

8. A certificate of survey showing present topography and also including boundary lines for all properties, watercourses, wetlands and other significant features within three hundred fifty feet (350').

9. A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the land fill is being conducted. Topsoil shall be of a quality capable of establishing normal vegetative growth.

10. A plan and/or statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.

11. A statement that the applicant will comply with all conditions prescribed by the city or its officers or agents.

B. The application shall be considered as being officially submitted when all the information requirements are complied with. (Ord. 1988-12, 12-19-1988; amd. 2005 Code; Ord. 2017-01, 1-3-2017)

1800.3: TECHNICAL REPORTS:
A. The zoning administrator shall process all land fill permit applications. Such applications, when determined to be necessary by the zoning administrator and all those for more than fifty (50) cubic yards, shall be forwarded to the city engineer and building official. Where watersheds, floodplains and/or wetlands are in question, the Minnesota department of natural resources shall also be contacted. These technical advisors shall be instructed by the zoning administrator to prepare reports for the council.

B. Filing fees in excess of the actual incurred expenses shall be refunded to the applicant. When the expenses incurred in the review of the application exceed the fee, such excess expenses shall be billed to the applicant. (Ord. 1988-12, 12-19-1988)

1800.4: ISSUANCE OF PERMIT:
A. Unless sent to the city engineer for review and comment, the building official shall determine as to whether, and when, and under what conditions a land fill permit for less than fifty (50) cubic yards shall be issued.

B. Upon receiving information and reports from the zoning administrator and the city engineer, the council shall make its determination as to whether, and when, and under what conditions such permit for a land fill greater than fifty (50) cubic yards is to be issued to the applicant by the

zoning administrator. (Ord. 1988-12, 12-19-1988)

1800.5: CONDITIONS OF OPERATION:

A. Under no circumstances shall any such land fill operation be conducted or permitted if the contents of the land fill or any part thereof shall consist of garbage, animal or vegetable refuse, poisons, contaminants, chemicals, decayed material, filth, sewage or similar septic or biologically dangerous material, or any other material deemed to be unsuitable by the city.

B. Unless expressly extended by permit, the hours of operation shall be limited to seven o'clock (7:00) A.M. to six o'clock (6:00) P.M., Monday through Friday. (Ord. 1988-12, 12-19-1988)

1800.6: SECURITY:

The council may require either the applicant or the owner or user of the property on which the land fill is occurring to post a security in such form and sum as the building official and/or city engineer shall determine, with sufficient surety provided to the city, conditioned to pay to the city the extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill material, the amount of such cost and expense to be determined by the city engineer; and conditioned further to comply with all requirements of this ordinance and the particular permit, and to pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued. (Ord. 1988-12, 12-19-1988)

1800.7: FAILURE TO COMPLY:

The council may, for failure of any person to comply with any requirement made of such person in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with. The cost of such work shall be taxed against the property whereon the land fill is located, or the city may, at its option, proceed to collect such costs by an action against the person to whom such permit has been issued, and such person's superiors if a bond exists. In the event that land filling operations requiring a permit are commenced prior to city review and approval, the city may require work stopped and all necessary applications filed and processed. Application fees shall be double the normal charge. (Ord. 1988-12, 12-19-1988)

1800.8: COMPLETION OF OPERATION:

A. All land fill operations shall be completed within ninety (90) days of the issuance of the permit. Upon completion, the permit holder shall notify the building official in writing of the date of completion. If additional time beyond the ninety (90) days is needed for completion, the permit holder may apply to the city, and upon a satisfactory showing of need, the council may grant an extension of time. If such extension is granted, it shall be for a definite period, and the zoning administrator shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the land fill operation within ninety (90) days and that failure to complete the operation was due to circumstances beyond the permit holder's control, such as shortage of fill material, teamster's strike, unusually inclement weather, illness or other such valid and reasonable excuse for noncompletion. In the event a request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with the other provisions of this section relating to grading, leveling and seeding or sodding. What constitutes such "reasonable time" shall be determined by the city engineer after inspecting the premises.

B. At the completion of a land fill operation, the premises shall be graded, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the city engineer shall prescribe in the permit. The site shall also conform to such prerequisites as the city engineer may determine with reference to stormwater drainage runoff and stormwater passage or flowage so that the land fill cannot become a source of, or an aggravation to, stormwater drainage conditions in the area. The city engineer shall inspect the project following completion to determine if the applicant has complied with the conditions required thereto. Failure of such compliance shall result in the withholding of any building permits for the site, and notice of such withholding shall be filed in the office of the county recorder for the purpose of putting subsequent purchasers on notice. (Ord. 1988-12, 12-19-1988)

1800.9: LAND FILLS IN PROCESS:

All land fill operations for which a permit has previously been issued shall terminate such operations on the date specified by the permit. (Ord. 1988-12, 12-19-1988)

CHAPTER 1900

LAND EXCAVATION/GRADING

SECTION:

1900.1: Permit Required

1900.2: Exceptions

1900.3: Application For Permit

1900.4: Technical Reports

1900.5: Issuance Of Permit

1900.6: Conditions Of Permit

1900.7: Security

1900.8: Failure To Comply

1900.9: Completion Of Operation

1900.1: PERMIT REQUIRED:

The extraction of sand, gravel, black dirt or other natural material from the land or the grading of land shall be termed "land excavation/grading". Any said act performed in the following manner shall require a permit:

A. Removing sand, gravel, black dirt, or other natural materials, or grading land within a drainage or utility easement.

B. Removing sand, gravel, black dirt or other natural materials or grading within a natural drainageway.

C. Removing sand, gravel, black dirt, or other natural materials or grading land within ten feet (10') of a property line.

D. Removing sand, gravel, black dirt or other natural materials or grading land in excess of twenty (20) cubic yards. (Ord. 2009-020, 10-5-2009)

1900.2: EXCEPTIONS:

It is intended hereunder to cover the removal of natural materials from lands including such activity when carried on as a business, but shall not apply to basement excavation or other excavation which is already covered by the building code or other such regulations of the city. (Ord. 1988-12, 12-19-1988)

1900.3: APPLICATION FOR PERMIT:

A. Any person desiring a permit hereunder shall present an application, and a fee as established in section 3-1-3 of the city code, on such form as shall be provided by the zoning administrator requiring the following information:

1. The name and address of the applicant.

2. The name and address of the owner of the land.

3. The address and legal description of the land involved.

4. The purpose of the excavation or grading.

5. A description of the type and amount of material to be excavated from or graded on the premises.

6. The highway, street or streets, or other public ways in the city upon and along which any material is to be hauled or carried.

7. An estimate of the time required to complete the excavation or grading.

8. A site plan showing present topography and also including boundary lines for all properties, watercourses, wetlands and other significant features within three hundred fifty feet (350').

9. A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the excavation is being conducted. Topsoil shall be of a quality capable of establishing normal vegetative growth.

10. A security statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.

11. A statement that the applicant will comply with all conditions prescribed by the city or its officers or agents.

B. The application shall be considered as being officially submitted when all the information requirements are complied with. A fee established by section 3-1-3 of the city code for such application shall be paid to the city at the time the application is submitted. (Ord. 1988-12, 12-19-1988; amd. 2005 Code; Ord. 2017-01, 1-3-2017)

1900.4: TECHNICAL REPORTS:

The zoning administrator shall immediately, upon receipt of such application, forward a copy thereof to the city engineer and building official. Where watersheds and/or wetlands are in question, the Minnesota department of natural resources shall also be contacted. These technical advisors shall be instructed by the zoning administrator to prepare reports for the council. (Ord. 1988-12, 12-19-1988)

1900.5: ISSUANCE OF PERMIT:

Upon receiving information and reports from the zoning administrator, building official and city engineer, the council shall make its determination as to whether, and when, and under what conditions such permit for an excavation or grading is to be issued to the applicant by the zoning administrator. (Ord. 1988-12, 12-19-1988)

1900.6: CONDITIONS OF PERMIT:

A. Prerequisites: The council, as a prerequisite to the granting of a permit, or after a permit has been granted, may require the applicant to whom such permit is issued, or the owner or user of the property on which the excavation or grading is located, to:

1. Properly fence the excavation.

2. Slope the banks, and otherwise properly guard to keep the excavation in such condition as not to be dangerous from caving or sliding banks.

3. Properly drain, fill in, level or grade the excavation, after it has been created, so as to make the same safe and healthful as the council shall determine.

4. Keep the excavation or grading within the limits for which the particular permit is granted.

5. Remove excavated or graded material from the excavation, away from the premises upon and along such highways, streets or other public ways as the council shall order and direct.

B. Hours Of Operation: Unless expressly extended by permit, the hours of operation shall be limited to seven o'clock (7:00) A.M. to six o'clock (6:00) P.M., Monday through Friday. (Ord. 1988-12, 12-19-1988)

1900.7: SECURITY:

The council may require either the applicant or the owner or user of the property on which the excavation or grading is occurring to post security in such form and sum as the council shall determine, with sufficient surety provided to the city, conditioned to pay to the city the extraordinary cost and expense of repairing, from time to time, the highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting excavated material, the amount of such cost and expense to be determined by the city engineer; and conditioned further to comply with all requirements of this ordinance, and the particular permit, and to pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is based. (Ord. 1988-12, 12-19-1988)

1900.8: FAILURE TO COMPLY:

The council may, for failure of any person to comply with any requirement made of such person in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be taxed against the property whereon the grading/excavation is located, or the city may, at its option, proceed to collect such costs by an action against the person to whom such permit has been issued, and his superiors if a security exists. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

1900.9: COMPLETION OF OPERATION:

A. All excavation and grading operations shall be completed within ninety (90) days of the issuance of the permit. Upon completion, the permit holder shall notify the building official in writing of the date of completion. If additional time beyond the ninety (90) days is needed for completion, the permit holder may apply to the city, and upon a satisfactory showing of need, the council may grant an extension of time. If such extension is granted, it shall be for a definite period, and the building official shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the excavation operation within ninety (90) days and that failure to complete the operation was due to circumstances beyond the permit holder's control, such as teamsters' strike, unusually inclement weather, illness or other such valid and reasonable excuse for noncompletion. In the event request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with the other provisions of this section relating to grading, leveling and seeding or sodding. What constitutes such

"reasonable time" shall be determined by the city engineer after inspecting the premises.

B. At the completion of an excavation or grading project, the premises shall be graded, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the city engineer shall prescribe in the permit. The site shall also conform to such prerequisites as the city engineer may determine with reference to stormwater drainage runoff and stormwater passage or flowage so that the excavation cannot become a source of, or an aggravation to, stormwater drainage conditions in the area. The city engineer shall inspect the project following completion to determine if the applicant has complied with the conditions imposed as part of the permit. (Ord. 1988-12, 12-19-1988)

CHAPTER 2000

SIGNS

SECTION:

2000.1: Compliance Required

2000.1: COMPLIANCE REQUIRED:
All signing shall be erected and maintained in compliance with the Albertville sign regulations, title 10, chapter 7 of the city code. (Ord. 1988-12, 12-19-1988)

CHAPTER 2100

ESSENTIAL SERVICES

SECTION:

2100.1: Purpose

2100.2: Special Permit Required

2100.3: Procedural Requirements

2100.4: Conditional Use Permit Required

2100.1: PURPOSE:
The purpose of this chapter is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the health, safety and welfare of the city will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services. (Ord. 1988-12, 12-19-1988)

2100.2: SPECIAL PERMIT REQUIRED:
All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines and substations less than thirty three (33) kilovolts, when installed in any public right of way in any zoning district, shall require a special permit approved by the city engineer. The special permit fee is established in section 3-1-3 of the city code. (Ord. 2017-01, 1-3-2017)

2100.3: PROCEDURAL REQUIREMENTS:
All underground telephone lines, pipelines for local distribution, underground transmission lines, and overhead electric transmission lines less than thirty three (33) kilovolts, which are extended to serve more than one parcel and are proposed to be installed at locations other than in public rights of way, shall require a special permit issued by the city after approval by the city engineer. Approval by the city engineer shall be based upon the information furnished in the following procedural requirements:

A. Prior to the installation of any of the previous essential services, the owner of such service shall file with the zoning administrator all maps and other pertinent information as deemed necessary for the city engineer to review the proposed project.

B. The zoning administrator shall transmit the map and accompanying information to the city engineer for his review and approval regarding the project's relationship to the comprehensive plan and parts thereof and/or city code provisions.

C. The city engineer shall report in writing to the zoning administrator the findings as to the compliance of the proposed project with the comprehensive plan and city code provisions.

D. In considering applications for the placement of essential services, as regulated in this ordinance, the aforesaid city staff shall consider the effect of the proposed project upon the health, safety and general welfare of the city, as existing and as anticipated, and the effect of the proposed project upon the comprehensive plan.

E. Upon receiving the approval of the city engineer, the zoning administrator shall issue a permit for the installation and operation of the applicant's essential services. If the engineer's report recommends the denial of said permit causing the zoning administrator to deny its issuance, the applicant may appeal said decision to the board of adjustment and appeals under the rules and procedures as set forth in chapter 600 of this ordinance. (Ord. 1988-12, 12-19-1988)

2100.4: CONDITIONAL USE PERMIT REQUIRED:
All transmission pipelines (i.e., pipelines not required for local distributing network) and overhead transmission and substation lines in excess of thirty three (33) kilovolts shall be a conditional use in all districts subject to the requirements of chapter 400 of this ordinance. (Ord. 1988-12, 12-19-1988)

CHAPTER 2200

MODEL HOMES

SECTION:

2200.1: Purpose

2200.2: Procedure

2200.3: Special Requirements

2200.4: Approval And Enforcement

2200.1: PURPOSE:
The purpose of this chapter is to provide for the erection of model homes in new subdivisions without adversely affecting the character of surrounding residential neighborhoods or creating a general nuisance. As model homes represent a unique temporary commercial use, special consideration must be given to the peculiar problems associated with them, and special standards must be applied to ensure reasonable compatibility with their surrounding environment. (Ord. 2006-07, 5-1-2006)

2200.2: PROCEDURE:
A. Submission Requirements:

1. Applicant shall submit site and building plans for the model that illustrates required setbacks, parking and pedestrian access, site access, site landscape plan, and building construction plan.

2. Applicant shall provide details related to outdoor lighting, model home signage and hours of operation.

3. Narrative describing site restoration to homesite shall be provided.

B. Staff Review: Appropriate staff shall review the application and prepare a technical report outlining the application compliance with city standards.

C. Approval: Staff may approve the model home applications and plans. (Ord. 2006-07, 5-1-2006)

2200.3: SPECIAL REQUIREMENTS:
A. Temporary parking facilities equal to four (4) spaces per model home dwelling unit shall be provided. The overall design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of the city engineer.

B. Access from a temporary parking facility onto a local, residential street shall be discouraged. Where this requirement is physically impracticable, access shall be directed away from residential neighborhoods to the greatest extent possible.

C. No model home shall incorporate outside lighting which creates a nuisance due to glare or intensity, as provided for in section 1000.10 of this ordinance.

D. All model home signage shall comply with the sign regulations as contained in the provisions of this ordinance relating to signs[1].

E. Sidewalks providing access to model homes shall be kept clear of debris and snow over the term of the model home permit.

F. Landscaping and fencing shall comply with the performance standards of section 1000.7 of this ordinance. (Ord. 2006-07, 5-1-2006)

Notes

[1] 1. See section 2000.1 of this ordinance.

2200.4: APPROVAL AND ENFORCEMENT:
A. As a condition for approval of a model home permit, the city may require the applicant to enter into a development agreement with the city that ensures proper installation of the model home improvements and the site's subsequent restoration as a homesite.

B. Staff may conduct periodic inspections to ensure that the model homesite remains in good condition and abides by the condition of the approval. (Ord. 2006-07, 5-1-2006)

CHAPTER 2300

ANIMALS [1]

SECTION:

2300.1: Care Of Animals

Notes

[1] 1. See also title 6, chapter 2 of the City Code for animal control regulations.

2300.1: CARE OF ANIMALS:
Domestic animals kept within any zoning district and farm animals kept within the agricultural districts shall be subject to the following requirements:

A. The size, number, species, facilities for and location of animals kept shall be maintained so as not to constitute a danger or nuisance by means of odor, noise or other elements.

B. The person caring for any animal(s) shall be of sufficient age, knowledge and experience to adequately and safely care for and control the animal(s).

C. Facilities for housing animal(s) shall be:

1. Constructed of such material as is appropriate for the animal(s) involved.

2. Maintained in good repair.

3. Controlled as to temperature, ventilated and lighted compatible with the health and comfort of the animal(s).

4. Of sufficient size to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress or abnormal behavior patterns.

5. Cleaned as often as necessary to prevent contamination of the animal(s) contained therein and to minimize disease hazards and reduce odors.

D. Animals shall be provided wholesome, palatable food and water free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health.

E. Animals kept in pet shops or kennels shall be kept in accordance with regulations for pet shops and kennels[2] in addition to the regulations provided by this ordinance.

F. Disposal facilities shall be provided to minimize vermin, infestation, odors, and disease hazards.

G. All outdoor facilities for housing or confining animals shall maintain the required minimum principal building setbacks for the applicable residential zoning districts.

H. The entrance of all outdoor facilities and/or doghouses shall be oriented towards the interior of the property on which the outdoor facility is located.

I. No outdoor facilities for housing commercial kennels or veterinarian clinics shall be constructed within the commercial or industrial districts. (Ord. 2007-05, 5-21-2007)

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Notes

2 2. See sections 6-2-16 and 6-2-18 of the City Code.

CHAPTER 2400

WIND ENERGY CONVERSION SYSTEMS (WECS)

SECTION:

2400.1: Purpose

2400.2: Application

2400.3: Declaration Of Conditions

2400.4: Site Plan Drawing

2400.5: Compliance With State Building Code

2400.6: Compliance With National Electrical Code

2400.7: Manufacturer Warranty

2400.8: Design Standards

2400.9: Ornamental Wind Devices

2400.10: Inspection

2400.11: Abandonment

2400.1: PURPOSE:
The purpose of this chapter is to establish standards and procedures by which the installation and operation of WECS shall be governed within the city. (Ord. 1988-12, 12-19-1988)

2400.2: APPLICATION:
Wind conversion systems may be allowed as a conditional use within any zoning district of the city, subject to the regulations and requirements of this chapter, provided the property upon which the system is to be located is zoned agricultural, commercial or industrial or is constructed and maintained on any parcel of land of at least two and one-half ($2^1/_2$) acres in size. (Ord. 1988-12, 12-19-1988)

2400.3: DECLARATION OF CONDITIONS:
The planning commission may recommend and the council may impose such conditions on the granting of WECS conditional use permit as may be necessary to carry out the purpose and provisions of this chapter. (Ord. 1988-12, 12-19-1988)

2400.4: SITE PLAN DRAWING:
All applications for a WECS conditional use permit shall be accompanied by a detailed site plan, drawn to scale and dimensioned, displaying the following information:

A. Lot lines and dimensions.

B. Location and height of all buildings, structures, aboveground utilities and trees on the lot, including both existing and proposed structures and guy wire anchors.

C. Locations and height of all adjacent buildings, structures, aboveground utilities and trees located within three hundred fifty feet (350') of the exterior boundaries of the property in question.

D. Existing and proposed setbacks of all structures located on the property in question.

E. Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to structures on adjacent lots. (Ord. 1988-12, 12-19-1988)

2400.5: COMPLIANCE WITH STATE BUILDING CODE:
Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings, shall be provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the state building code [1]. Drawings and engineering calculations shall be certified by a registered engineer. (Ord. 1988-12, 12-19-1988)

Notes

[1] 1. See section 10-2-1 of the city code.

2400.6: COMPLIANCE WITH NATIONAL ELECTRICAL CODE:
WECS electrical equipment and connections shall be designed and installed in adherence to the national electrical code as adopted by the city. (Ord. 1988-12, 12-19-1988)

2400.7: MANUFACTURER WARRANTY:
Applicant shall provide documentation or other evidence from the dealer or manufacturer that the WECS has been successfully operated in atmospheric conditions similar to the conditions within the city. The WECS shall be warranted against any system failures reasonably expected in severe weather operation conditions. (Ord. 1988-12, 12-19-1988)

2400.8: DESIGN STANDARDS:
A. Height: The permitted maximum height of a WECS shall be determined in one of two (2) ways. In determining the height of the WECS, the total height of the system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor.

1. A ratio of one foot to one foot (1':1') between the distance of the closest property line to the base of WECS to the height of the system.

2. A maximum system height of one hundred seventy five feet (175').

3. The shortest height of the two (2) above mentioned methods shall be used in determining the maximum allowable height of a WECS. The height of a WECS must also comply with FAA regulation part 77 "Objects Affecting Navigable Air Space" and/or MnDOT rule 14, MCAR 1.3015 "Criteria For Determining Obstruction To Air Navigation".

B. Setbacks: No part of a WECS (including guy wire anchors) shall be located within or above any required front, side or rear yard setback. WECS towers shall be set back from the closest property line one foot (1') for every one foot (1') of system height. WECS shall not be located within thirty feet (30') of an aboveground utility line.

C. Rotor Size: All WECS rotors shall not have rotor dimensions greater than twenty six feet (26').

D. Rotor Clearance: Blade arcs created by the WECS shall have a minimum of thirty feet (30') of clearance over any structure or tree within a two hundred foot (200') radius.

E. Rotor Safety: Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high wind (40 miles per hour or greater).

F. Lightning Protection: Each WECS shall be grounded to protect against natural lightning strikes in conformance with the national electrical code as adopted by the city.

G. Tower Access: To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:

1. Tower climbing apparatus shall not be located within twelve feet (12') of the ground.

2. A locked anticlimb device shall be installed on the tower.

3. Towers capable of being climbed shall be enclosed by a locked, protective fence at least six feet (6') high.

H. Signs: WECS shall have one sign, not to exceed two (2) square feet, at the base of the tower, and said sign shall contain the following information:

1. Warning high voltage.

2. Manufacturer's name.

3. Emergency phone number.

4. Emergency shutdown procedures.

I. Lighting: WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by FAA regulations part 77 "Objects Affecting Navigable Air Space" and FAA advisory circular 70/7460-1F, September 1978 "Obstruction Marking And Lighting".

J. Electromagnetic Interference: WECS shall be designed and constructed so as not to cause radio and television interference.

K. Noise Emissions: Noises emanating from the operation of WECS shall be in compliance with and regulated by the state pollution control standards, Minnesota regulations NPC 1 and 2, as amended.

L. Utility Company Interconnection: No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commented upon it. The interconnection of the WECS with the utility company shall adhere to the national electrical code as adopted by the city. (Ord. 1988-12, 12-19-1988)

2400.9: ORNAMENTAL WIND DEVICES:
Ornamental wind devices that are not a WECS shall be exempt from the provisions of this chapter and shall conform to other applicable provisions of this ordinance. (Ord. 1988-12, 12-19-1988)

2400.10: INSPECTION:
The city hereby reserves the right, upon issuing any WECS conditional use permit, to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation. (Ord. 1988-12, 12-19-1988)

2400.11: ABANDONMENT:
Any WECS or tower which is not used for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. (Ord. 1988-12, 12-19-1988)

CHAPTER 2500

COMMUNICATION RECEPTION/TRANSMISSION DEVICES

SECTION:

2500.1: Purpose

2500.2: General Standards

2500.3: Accessory And Secondary Use Antennas

2500.4: Personal Wireless Service Antennas

2500.5: Satellite Dishes

2500.6: Commercial And Public Radio And Television Transmitting Antennas And Public Utility Microwave Antennas

2500.7: Small Cell Wireless Facilities In The Public Right-Of-Way

2500.1: PURPOSE:
The purpose of this chapter is to establish predicable, balanced regulations for the siting and screening of wireless communications equipment in order to accommodate the growth of wireless communicating systems within the City while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997)

2500.2: GENERAL STANDARDS:
The following standards shall apply to all personal wireless service, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and shortwave radio transmitting and receiving antennas:

A. All obsolete and unused antennas shall be removed within twelve (12) months of cessation of operation at the site, unless an exemption is granted by the City Council. The removal shall be the joint responsibility of the tower owner or communication provider and landowner.

B. All antennas shall be in compliance with all City Building and Electrical Code requirements and, as applicable, shall require related permits.

C. Structural design, mounting and installation of the antennas shall be in compliance with manufacturer's specifications and shall be verified and approved by a registered professional engineer.

D. Unless the antennas/antenna support structures and land are under the same ownership, written authorization for antenna erection shall be provided by the property owner.

E. No advertising message shall be affixed to the antenna structure.

F. Antennas shall not be artificially illuminated, unless required by law or by a governmental agency to protect the public health and safety.

G. When applicable, proposals to erect new antennas shall be accompanied by any required Federal, State, or local agency licenses.

H. If a new antenna support structure is to be constructed, it shall be designed structurally, electrically and, in all respects, to accommodate both the applicant's antennas and comparable antennas for at least one additional user, including, but not limited to, other personal wireless service companies or local police, fire and ambulance companies. The antenna support structure must be designed to allow for future rearrangement of antennas upon it and to accept antennas mounted at varying levels.

I. Antenna support structures under two hundred feet (200') in height shall be painted a noncontrasting color consistent with the surrounding area, such as blue, gray, brown or silver, or have a galvanized finish to reduce visual impact, unless otherwise allowed by Federal law.

J. Except as may be applicable in cases where a conditional use permit is required, antennas and support structures for Federally licensed amateur radio stations and used in the amateur radio service are exempt from subsections C, F and I of this section, and must comply with subsection K of this section.

K. Amateur radio support structures (towers) shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

L. All small cell wireless facilities not within a public right of way shall adhere to all other requirements in the chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997; Ord. 2019-13, 12-16-2019)

2500.3: ACCESSORY AND SECONDARY USE ANTENNAS:
The following standards shall apply to all accessory and secondary use antennas including radio and television receiving antennas, satellite dishes, TVROs two meters (2m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federally licensed amateur radio stations and television receivers:

A. Accessory and secondary use antennas shall be allowed as permitted accessory uses in all zoning districts. The installation of more than one support structure per property shall require the approval of a conditional use permit.

B. Accessory or secondary use antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, and shall be set back a minimum of ten feet (10') from all lot lines.

C. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of five feet (5') from all lot lines.

D. Accessory or secondary use antennas and necessary support structures, monopoles or towers (either ground or structure mounted) may not exceed the height limitation of the zoning district in which they are located, except support structures and antennas used in the amateur radio service may extend a maximum of seventy feet (70') above "grade", as defined in section 200.2 of this ordinance, in any zoning district. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997)

2500.4: PERSONAL WIRELESS SERVICE ANTENNAS:
Personal wireless service antennas shall be allowed in all commercial, industrial and public/institutional districts of the city subject to the following standards as may be applicable:

A. Antennas Located Upon A Public Structure: Personal wireless service located upon a public structure shall be processed in accordance with the provisions of chapter 1500 of this ordinance and shall comply with the following standards:

1. Consideration shall be given to the location of existing as well as planned public structures (i.e., joint powers water towers) to take advantage of collocation opportunities and avoid potential interference problems.

2. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate. Where receiving and switching equipment does not require an equipment building for protection from the elements, it may be housed at the base of the tower, provided it is screened from view by fencing or other manmade materials (in the case of an antenna located upon a structure) or landscaping (in the case of ground mounted antenna).

B. Antennas Not Located Upon A Public Structure: Personal wireless service antennas not located upon a public structure shall require the processing of a conditional use permit and shall comply with the following standards:

1. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless it can be demonstrated that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one mile search radius ($^1/_2$ mile search radius for towers under 120 feet in height and/or $^1/_4$ mile search radius for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:

a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower or building cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.

b. The planned equipment would cause interference, materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified radio frequency engineer, and the interference cannot be prevented at a reasonable cost.

c. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified engineer.

d. In spite of its best efforts, within sixty (60) days, the applicant was unable to obtain approval to collocate on an existing or approved tower or building. The applicant's efforts must be documented in writing, including who was contacted and the written denial of the request.

e. Other reasons that make it impractical to locate the planned telecommunications equipment upon an existing or approved tower or building.

2. The applicant shall provide a scale map of the city and surrounding locality which shows the coverage area of the proposed antenna.

3. The antennas shall be located on an existing structure, if possible, and shall not extend more than fifteen feet (15') above the structural height of the structure to which they are attached.

4. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a single ground mounted pole; provided, that:

a. The pole not exceed one hundred feet (100') in height, unless it can be demonstrated that the extra height is necessary to optimize coverage, allow greater siting flexibility/collocation opportunities or to eliminate the need for multiple (shorter) towers.

b. The setback of the pole from the nearest residential structure is not less than the height of the antenna. Exceptions to such setback may be granted if a registered structural engineer specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances.

5. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate. Where receiving and switching equipment does not require an equipment building for protection from the elements, it may be housed at the base of the tower, provided it is screened from view by fencing or other manmade materials (in the case of an antenna located upon a structure) or landscaping (in the case of ground mounted antenna).

6. Unless the antenna is mounted on an existing structure, a security fence not greater than eight feet (8') in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure.

7. The conditional use permit provisions of chapter 400 of this ordinance are considered and determined to be satisfied.

C. Temporary Mobile Towers: Personal wireless service antennas located upon a temporary mobile tower used on an interim basis until a permanent site is located and permanent tower is constructed shall require review and approval by the city administrator and shall comply with the following standards:

1. Temporary mobile towers are exempt from collocation and permanent tower structure design standards contained in subsections 2500.2H and I of this chapter and subsection B1 of this section.

2. The termination date of the permit shall not exceed one hundred twenty (120) days. Temporary mobile towers located on a site longer than one hundred twenty (120) days shall require approval of the city administrator.

3. Guyed towers are prohibited.

4. Mobile units shall have a minimum tower design wind load of eighty (80) miles per hour, or be set back from all structures a distance equal to the height of the tower.

5. All towers shall be protected against unauthorized climbing.

6. The height of the tower shall not exceed ninety feet (90'). (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997)

2500.5: SATELLITE DISHES:
A. Residential District Standards: Single satellite dish TVROs greater than one meter (1m) in diameter located within any residential zoning district of the city shall require the processing of a conditional use permit and shall comply with the following standards:

1. All accessory and secondary use provisions of section 2500.3 of this chapter are satisfactorily met.

2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction free receive window can be maintained within the limits of the property ownership.

3. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the receive window.

4. The satellite dish antenna is not greater than three meters (3m) in diameter.

5. The conditional use permit provisions of chapter 400 of this ordinance are considered and determined to be satisfied.

B. Commercial, Industrial, And Public/Institutional District Standards: Commercial, private and public satellite dish transmitting or receiving antennas in excess of two meters (2m) located within any commercial, industrial, or public/institutional zoning district of the City shall require the processing of a conditional use permit and shall comply with the following standards:

1. All accessory and secondary use provisions of section 2500.3 of this chapter are satisfactorily met.

2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction free transmit-receive window or windows can be maintained within the limits of the property ownership.

3. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the receive window.

4. The conditional use permit provisions of chapter 400 of this ordinance are considered and determined to be satisfied. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997)

2500.6: COMMERCIAL AND PUBLIC RADIO AND TELEVISION TRANSMITTING ANTENNAS AND PUBLIC UTILITY MICROWAVE ANTENNAS:

Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:

A. Such antennas shall be considered an allowed conditional use within the P/I Public/Institutional District of the City and shall be subject to the regulations and requirements of chapter 400 of this ordinance.

B. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.

C. Unless the antenna is mounted on an existing structure, a fence not greater than eight feet (8') in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure and other equipment.

D. Antennas regulated under this section shall not interfere with neighboring property communication/reception transmission devices of any kind. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997; 2005 Code)

2500.7: SMALL CELL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF- WAY:

A. Purpose: The purpose of this section is to establish zoning regulations related to the siting of small cell wireless facilities in the public right-of-way as defined and regulated by chapter 200 of this ordinance. Terms used herein are defined in chapter 200 of this ordinance.

B. Conditional Use Permit Required: Small cell wireless support structures and/or antennae shall require a conditional use permit when located adjacent to or within the R-1A through R-MH Districts or any PUD District with an underlying designation of R-1A through R-MH.

C. Conditional Use Standards: No conditional use permit shall be granted unless it meets the following standards:

1. No new wireless support structure shall be greater than fifty feet (50') in height.

2. No new wireless support structure shall be closer than five feet (5') to a curb, driveway, or pedestrian way.

3. No new wireless support structure shall be more than five feet (5') from the side lot line extended to the street.

4. To the extent possible, all antennas and equipment shall be shrouded and/or camouflaged.

5. New wireless support structures shall be constructed from earth-tone fiberglass.

6. All facilities shall use colors to minimize the visual impact when viewed from the public right-of-way and nearby properties, except in instances where the color is dictated by the Federal or State authorities.

7. Small cell wireless facilities shall be served by underground power and communication lines. The structure shall not be served by any above-ground power or communication lines.

8. Equipment enclosures shall be screened from view with landscaping materials.

9. If the proposed facility results in significantly increased sound levels, sound buffers may be required, including but not limited to baffling, barriers, enclosures, walls, and plantings.

10. Small cell facilities shall not be illuminated by artificial means and shall not display lights.

11. The design of utility poles shall be similar in appearance to other poles located in the right-of-way.

D. Requirements When Facilities Not Within Right-Of-Way: All small cell wireless facilities not within a public right-of-way shall adhere to all other requirements in this chapter. (Ord. 2017-11, 12-4-2017)

CHAPTER 2600

PUBLIC PROPERTY/RIGHTS OF WAY

SECTION:

2600.1: Coverage

2600.2: Liability

2600.1: COVERAGE:
The erection and/or placement of any structure in the public right of way or on city property by any person or group, other than a governmental unit, shall require the processing of a conditional use permit in accordance with chapter 400 of this ordinance. (Ord. 1988-12, 12-19-1988)

2600.2: LIABILITY:
As a condition of approval for the erection or placement of a structure in the public right of way or on city property by any party other than a governmental unit, the applicant shall be required to hold harmless the city for any potential liability and shall demonstrate to the city proof of adequate liability insurance. (Ord. 1988-12, 12-19-1988)

CHAPTER 2700

PLANNED UNIT DEVELOPMENT

SECTION:

2700.1: Purpose

2700.2: General Requirements And Standards

2700.3: Submission Requirements

2700.4: Procedure For Processing A Planned Unit Development

2700.1: PURPOSE:
This chapter is established to provide comprehensive procedures and standards designed to allow greater flexibility in the development of neighborhoods or areas by incorporating a mixture of densities/intensities or use types when applied to a PUD district. The PUD process, by allowing deviation from the strict provisions of this ordinance related to setbacks, height, lot area, width and depth, yards, etc., by PUD zoning, is intended to encourage:

A. Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and siting of structures and by the conservation and more efficient use of land in such developments.

B. Higher standards of site and building design through the use of trained and experienced land planners, architects and landscape architects.

C. More convenience in location and design of development and service facilities.

D. The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the prevention of soil erosion.

E. A creative use of land and related physical development which allows a phased and orderly transition of land from rural to urban uses.

F. An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.

G. A development pattern in harmony with the objectives of the comprehensive plan. (PUD is not intended as a means to vary applicable planning and zoning principles.)

H. A more desirable and creative environment than might be possible through the strict application of zoning and subdivision regulations of the city. (Ord. 1988-12, 12-19-1988; amd. Ord. 2007-12, 10-1-2007)

2700.2: GENERAL REQUIREMENTS AND STANDARDS:
A. Ownership: An application for PUD must be filed by the landowner, or jointly by all landowners, of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved final plan shall be binding on all owners.

B. Comprehensive Plan Consistency: The proposed PUD shall be consistent with the city comprehensive plan.

C. Sanitary Sewer Plan Consistency: The proposed PUD shall be consistent with the city comprehensive sewer plan.

D. Compatibility: The proposed PUD shall be compatible with the adjacent land uses.

E. Common Open Space: Common open space at least sufficient to meet the minimum requirements established in the comprehensive plan and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD shall be provided within the area of the PUD development.

F. Operating And Maintenance Requirements For PUD Common Open Space/Facilities: Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the city:

1. Dedicated to the public, where a communitywide use is anticipated and the council agrees to accept the dedication.

2. Landlord control, where only use by tenants is anticipated.

3. Property owners' association, provided all of the following conditions are met:

a. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tracts, or common area, a declaration of covenants, conditions and restrictions or an equivalent document and a set of floor plans such as specified by Minnesota statutes sections 515A.2-105 through 515A.2-107, shall be filed with the city, said filing with the city to be made prior to the filings of said declaration or document or floor plans with the recording officers of Wright County, Minnesota.

b. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject said properties to the terms of said declaration.

c. The declaration of covenants, conditions and restrictions shall provide that an owners' association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners' proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the city attorney. The intent of this requirement is to protect the property values of the individual owner through establishing private control.

d. The declaration shall additionally, among other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the city or fails to pay taxes or assessments on properties as they become due, and in the event the city incurs any expenses in enforcing its rules and regulations, which said expenses are not immediately reimbursed by the association or corporation, then the city shall have the right to assess each property its prorated share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.

e. Membership must be mandatory for each owner and any successive buyer.

f. The open space restrictions must be permanent and not for a given period of years.

g. The association must be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it.

h. Property owners must pay prorated share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with Minnesota statutes.

i. The association must be able to adjust the assessment to meet changed needs.

j. The bylaws and rules of the association and all covenants and restrictions to be recorded must be approved by the council prior to the approval of the final PUD plan.

G. Staging Of Public And Common Open Space: When a PUD provides for common or public open space and is planned as a staged development over a period of time, the total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

H. Density: The maximum allowable density in a PUD zoning district shall be determined by standards negotiated and agreed upon between the applicant and the city. In all cases, the negotiated standards shall be consistent with the development policies as contained in the comprehensive plan. Whenever a PUD is to be developed in stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds one hundred percent (100%) of the proposed residential density of the entire planned unit development unless this provision is explicitly modified in the planned unit development/developer's agreement approved by the city council.

I. Utilities: In any PUD, all utilities, including telephone, electricity, gas and telecable, shall be installed underground.

J. Utility Connections:

1. Water Connections: Where more than one property is served from the same service line, individual unit shutoff valves shall be provided as required by the city.

2. Sewer Connections: Where more than one unit is served by a sanitary sewer lateral which exceeds three hundred feet (300') in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners' association or owner.

K. Roadways: All streets shall conform to the design standards contained in the subdivision regulations of the city code[1], unless otherwise approved by the city.

L. Landscaping: In any PUD, landscaping shall be provided according to a plan approved by the city, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the city shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the PUD plan.

M. Urban/Rural Servicing Requirements: All development will be carefully phased so as to ensure that all developable land will be accorded a present vested right to develop at such time as services and facilities are available. Lands which have the necessary available municipal facilities and services will be granted approval in accordance with existing city code provisions and development techniques. Lands which lack the available public facilities and services may be granted approval for development; provided, that all applicable provisions of this ordinance, the city code, and state regulations are complied with.

N. Setbacks:

1. A PUD zoning district shall, at a minimum, have a thirty five foot (35') front yard setback and ten foot (10') side yard setback. As appropriate, the city council may modify these standards.

2. No building shall be located less than fifteen feet (15') from the back of the curb line along those roadways which are part of the internal street pattern.

3. No building within the project shall be nearer to another building less than one-half (1/2) the sum of the building heights of the two (2) buildings. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-17, 11-17-1997; Ord. 2007-12, 10-1-2007)

Notes

[1] 1. See section 11-7-6 of the city code.

2700.3: SUBMISSION REQUIREMENTS:
Ten (10) copies of the following exhibits, analyses and plans shall be submitted to the planning commission and council during the PUD process, at the times specified in chapter 400 of this ordinance:

A. General Concept Stage:

1. General Information:

a. The landowner's name and address and such person's interest in the subject property.

b. The applicant's name and address if different from the landowner.

c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.

d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up to date certified abstract of title or registered property report, and such other evidences as the city attorney may require to show the status of title or control of the subject property.

2. Present Status:

a. The address and legal description of the subject property.

b. The existing zoning classification and present use of the subject property and all lands within one thousand feet (1,000') of the subject property.

c. A map depicting the existing development of the subject property and all land within three hundred feet (300') thereof which clearly indicates the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within one hundred feet (100') of the subject property.

3. General Statement: A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the comprehensive plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the city.

4. Site Conditions: Graphic reproductions of the existing site conditions at a scale of one inch equals one hundred feet (1"=100').

a. Contours - minimum two foot (2') intervals.

b. Location, type and extent of tree cover.

c. Slope analysis.

d. Location and extent of water bodies, wetlands and streams and floodplains within three hundred feet (300') of the subject property.

e. Significant rock outcroppings.

f. Existing drainage patterns.

g. Vistas and significant views.

h. Soil conditions as they affect development.

All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

5. Schematic Drawing: Schematic drawing of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.

6. Number Of Dwelling Units: A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

a. Area devoted to uses.

b. Area devoted to use by building type.

c. Area devoted to common open space.

d. Area devoted to public open space.

e. Approximate area devoted to streets.

f. Approximate area devoted to, and number of, off street parking and loading spaces and related access.

7. Schedule Of Stages: When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit, and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such stage, and the overall chronology of development to be followed from stage to stage.

8. Open Space Or Service Facilities: When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.

9. Covenants: General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

10. Utilities Plans: Schematic utilities plans indicating placement of water, sanitary and storm sewers.

11. Exemptions: The zoning administrator may excuse an applicant from submitting any specific item of information or document required in this stage which he finds to be unnecessary to the consideration of the specific proposal for PUD approval.

12. Additional Information: The zoning administrator may require the submission of any additional information or documentation which he may find necessary or appropriate to the consideration of the proposed PUD or any aspect or stage thereof.

B. Development Stage Submissions: Development stage submissions should depict and outline the proposed implementations of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include, but not be limited to:

1. Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan.

2. Ten (10) sets of preliminary plans, drawn to a scale of not less than one inch equals one hundred feet (1" = 100') or scale requested by the zoning administrator, containing at least the following information:

a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat heretofore recorded in Wright County).

b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.

c. The location, size, use and arrangement, including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, and existing buildings which will remain, if any.

d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements, including bike and pedestrian, and the total site coverage of all elements.

e. Location, designation and total area of all common open space.

f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.

g. Proposed lots and blocks, if any, and numbering system.

h. The location, use and size of structures and other land uses on adjacent properties.

i. Detailed sketches and provisions of proposed landscaping.

j. General grading and drainage plans for the developed PUD.

k. Any other information that may have been required by the planning commission and city in conjunction with the approval of the general concept plan.

3. An accurate legal description of the entire area within the PUD for which final development plan approval is sought.

4. A tabulation indicating the number of residential dwelling units and expected population.

5. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g., drugstore, dry cleaning, supermarket).

6. Preliminary architectural "typical" plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings, including manufactured homes.

7. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights of way, utility lines and facilities, lots, blocks, public and common open space, general landscaping plan, and structures, including manufactured homes and uses.

8. Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan.

9. A preliminary plat prepared in accordance with the subdivision regulations of the city[1].

10. A soil erosion control plan acceptable to watershed districts, department of natural resources, soil conservation service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

11. A statement summarizing all changes which have been made in any document, plan, data or information previously submitted, together with revised copies of any such document, plan or data.

12. Such other and further information as the planning commission, zoning administrator or city council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.

13. The zoning administrator may excuse an applicant from submitting any specific item of information or document required in this subsection it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

C. Final Plan Stage: After approval of a general concept plan for the PUD and approval of a development stage plan for a section of the proposed PUD, the applicant will submit the following material for review by the city staff prior to issuance of a building permit:

1. Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.

2. All certificates, seals and signatures required for the dedication of land and recordation of documents.

3. Final architectural working drawings of all structures.

4. A final plan and final engineering plans and specifications for streets, utilities and other public improvements, together with a city/applicant agreement for the installation of such improvements and financial guarantees for the completion of such improvements.

5. Any other plans, agreements, or specifications necessary for the city staff to review the proposed construction. All work must be in conformance with the Minnesota state building code[2]. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

Notes

1 1. See section 11-4-2 of the city code.

2 1. See section 10-2-1 of the city code.

2700.4: PROCEDURE FOR PROCESSING A PLANNED UNIT DEVELOPMENT:

A. General Processing Requirements:

1. The PUD request shall be processed according to chapter 300 of this ordinance. Separate application shall be required for the PUD zoning and each PUD review stage. Said application shall be accompanied by a fee and escrow established in section 3-1-3 of the city code.

2. Whenever an application for a concept stage, development stage, or final plan stage planned unit development has been considered and denied by the city council, a similar application and proposal for a planned unit development affecting either a portion or all of the same property shall not be considered again by the planning commission or city council for at least one year from the date of its denial, except as follows:

a. Applications are withdrawn prior to the city council taking action on the matter.

b. If the city council determines that the circumstances surrounding a previous application have changed significantly.

c. If the city council decides to reconsider such matter by a four-fifths ($^4/_5$) vote of the entire city council.

B. Preapplication Conference: Prior to filing an application for a PUD, the applicant of the proposed PUD is encouraged to arrange for and attend a conference with the zoning administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data.

C. General Concept Plan:

1. Purpose: The general concept plan provides an opportunity for the applicant to submit a plan to the city showing his basic intent and the general nature of the entire development without incurring substantial cost. The following elements of the proposed general concept plan represent the immediately significant elements for city review and comment:

a. Overall maximum PUD density range.

b. General location of major streets and pedestrianways.

c. General location and extent of public and common open space.

d. General location of residential and nonresidential land uses with approximate type and intensities of development.

e. Staging and time schedule of development.

f. Other special criteria for development.

2. Schedule:

a. Applicant meets with the zoning administrator to discuss the proposed developments.

b. The applicant shall file the concept stage application, together with all supporting data and a filing fee established in section 3-1-3 of the city code.

c. Within thirty (30) days after verification by the city that the required plan and supporting data is adequate, the request shall be processed in accordance with the applicable procedures and schedule as defined by this section or section 2700.3 of this chapter.

3. Optional Submission Of Development Stage Plan: In cases of single stage PUDs or where the applicant wishes to begin the first stage of a multiple stage PUD immediately, he may, at his option, initially submit development stage plans for the proposed PUD. In such case, the planning commission and city council shall consider such plans, grant or deny development stage plan approval in accordance with the provisions of this chapter.

4. Effect Of Concept Plan Approval: Unless the applicant shall fail to meet time schedules for filing development stage and final plans or shall fail to proceed with development in accordance with the plans as approved or shall in any other manner fail to comply with any condition of this chapter or of any approval granted pursuant hereto, a general concept plan which has been approved shall not be modified, revoked or otherwise impaired pending the application of development stage and final plans by any action of the city without the consent of the applicant.

5. Limitation On General Concept Plan Approval: Unless a development stage plan covering at least ten (10) dwelling units or the area designated in the general concept plan as the first stage of the PUD, whichever is greater, has been filed within six (6) months from the date council grants general concept plan approval, or in any case where the applicant fails to file development stage and final plans and to proceed with development in accordance with the provisions of this ordinance and of an approved general concept plan, the approval shall lapse. Upon request of the applicant, the city council, at its discretion, may extend, for additional periods not in excess of six (6) months each, the filing deadline for any development stage plan when, for good cause shown, such extension is necessary.

D. Development Stage:

1. Purpose: The purpose of the development stage plan is to provide a specific and particular plan upon which the planning commission will base its recommendation to the council and with which substantial compliance is necessary for the preparation of the final plan.

2. Submission Of Development Stage: Upon approval of the general concept plan, and within the time established in subsection C5 of this section, the applicant shall file with the zoning administrator a development stage plan consisting of the information and submissions required by subsection C5 of this section, as well as applicable fees as established in section 3-1-3 of the city code, for the entire PUD or for one or more stages thereof in accordance with a staging plan approved as part of the general concept plan. The development stage plan shall refine, implement and be in substantial conformity with the approved general concept plan.

3. Review And Action By City Staff And Planning Commission:

a. Immediately upon receipt of a completed development stage plan, said plan shall be referred to the following city staff and/or official bodies for the indicated action:

(1) The city attorney for legal review of all documents.

(2) The city engineer for review of all engineering data and the city/developer agreement.

(3) The building official for review of all building plans.

(4) The zoning administrator or his agent for review of all plans for compliance with the intent, purpose and requirements of this ordinance and conformity with the general concept plan and comprehensive plan.

(5) The planning commission for review and recommendation to the council.

(6) When appropriate, as determined by the zoning administrator, to other special review agencies such as the watershed districts, soil conservation services, highway departments or other review agencies and governmental jurisdictions.

b. The review and action by city staff and/or official bodies or agencies so designated shall be completed within ninety (90) days of receipt of a completed development stage plan.

4. Council Action: Within one hundred fifty (150) days of the receipt of a completed development stage plan, the city council shall act to deny or approve the request.

5. PUD Enactment: Final approval of a PUD zoning district map amendment shall be considered granted only at the time of development stage plan approval by the city council.

6. Limitation On Development Stage Plan Approval: Unless a final plan covering the area designated in the development stage plan as the first stage of the PUD has been filed within six (6) months from the date council grants development stage plan approval or, in any case, where the applicant fails to file final plans and to proceed with development in accordance with the provisions of this chapter and/or an approved development stage plan, the approval shall expire. Upon application by the applicant, the council, at its discretion, may extend for not more than six (6) months the filing deadline for any final plan when, for good cause shown, such extension is necessary.

7. Site Improvements: At any time following the approval of a development stage plan by the council, the applicant may, pursuant to the applicable city code provisions, apply for, and the city engineer may issue, grading permits for the area within the PUD for which development stage plan approval has been given.

E. Final Plan:

1. Purpose: The final plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. The final plan shall serve in conjunction with other city code provisions as the land use regulation application to the PUD. The final plan is intended only to add detail to, and to put in final form, the information contained in the development stage plan and shall conform to the development stage plan in all respects.

2. Schedule:

a. Upon approval of the development stage plan, and within the time established in subsection D6 of this section, the applicant shall file with the zoning administrator a final plan consisting of the information and submissions required in subsection 2700.3C of this chapter, as well as applicable fees as established in section 3-1-3 of the city code, for the entire PUD or for one or more stages. This plan will be reviewed and approved or denied by city staff.

b. Within thirty (30) days of its approval, the applicant shall cause the final plan, or such portions thereof as are appropriate, to be recorded with the county recorder or registrar of titles. The applicant shall provide the city with a signed copy verifying county recording within forty (40) days of the date of approval.

3. Building And Other Permits: Except as otherwise expressly provided herein, upon receiving notice from the zoning administrator that the approved final plan has been recorded and upon application of the applicant pursuant to the applicable city code provisions, all appropriate officials of the city may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved final plan; provided, however, that no such permit shall be issued unless the appropriate official is first satisfied that the requirements of all codes and city code provisions which are applicable to the permit sought have been satisfied.

4. Limitation Of Final Plan Approval: Within one year after the approval of a final plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension shall have been granted as hereinafter provided, automatically render void the PUD permit, and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of this ordinance, and other city code provisions, applicable in the district in which it is located. In cases involving PUD rezoning, the council shall forthwith adopt an ordinance repealing the PUD and all PUD approvals and reestablishing the zoning and other city code provisions that would otherwise be applicable. The time limit established by this subsection E4 may, at the discretion of the council, be extended for not more than one year.

5. Inspections During Development:

a. Following final plan approval of a PUD, or a stage thereof, the zoning administrator shall, at least annually until the completion of the development, review all permits issued and construction undertaken and compare actual development with the approved development schedule.

b. If the zoning administrator finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, the city shall: by ordinance revoke the PUD permit, and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take such steps as it deems necessary to compel compliance with the final plans as approved; or shall require the landowner or applicant to seek an amendment to the final plan. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-3, 3-4-1996; 2005 Code; Ord. 2007-12, 10-1-2007; Ord. 2017-01, 1-3-2017; Ord. 2019-13, 12-16-2019)

CHAPTER 2800

ADULT USES

SECTION:

2800.1: Purpose

2800.2: General

2800.3: Adult Uses - Principal

2800.4: Adult Uses - Accessory

2800.5: Nonconforming Adult Uses - Principal Or Accessory

2800.1: PURPOSE:
The nature of adult uses is such that they are recognized as having adverse secondary characteristics, particularly when they are accessible to minors and located near residential property or related residential uses such as schools, daycare centers, libraries or parks. Furthermore, the concentration of adult uses has an adverse effect upon the use and enjoyment of adjacent areas. The nature of adult uses requires that they not be allowed within certain zoning districts or within minimum distances from each other or residential uses. Special regulation of adult uses is necessary to ensure that the adverse secondary effects would not contribute or enhance criminal activity in the area of such uses nor will it contribute to the blighting or downgrading of the surrounding property and lessening of its value. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-4, 4-5-1993)

2800.2: GENERAL:
"Adult uses", as defined in section 200.2 of this ordinance, shall be subject to the following provisions:

A. Activities classified as "obscene", as defined by Minnesota statutes section 617.241, are not permitted and are prohibited.

B. Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

C. Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also used to dispense or consume alcoholic beverages.

D. An adult use which does not qualify as an accessory use shall be classified as an adult use - principal. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-4, 4-5-1993)

2800.3: ADULT USES - PRINCIPAL:
A. Adult use - principal shall be located at least three hundred (300) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use - principal is located, to the property line of:

1. Residentially zoned property.

2. A licensed daycare center.

3. A public or private educational facility classified as a preschool, elementary, junior high or senior high.

4. A public library.

5. A public park.

6. Another adult use - principal.

7. An on sale liquor establishment.

B. Adult use - principal shall be located at least three hundred (300) radial feet as measured from one another.

C. Adult use - principal activities, as defined in section 200.2 of this ordinance, shall be classified as one use. No two (2) adult uses - principal shall be located in the same building or upon the same property, and each use shall be subject to subsections 2800.2B and C of this chapter.

D. Adult use - principal shall adhere to the following signing regulations:

1. Sign messages shall be generic in nature and shall only identify the type of business which is being conducted.

2. Shall not contain material classified as advertising.

3. Shall comply with the requirements of size and number for the district in which they are located.

E. Adult use - principal activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical, or other performance or exhibition presented to the general public where minors are permitted. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-4, 4-5-1993; 2005 Code)

2800.4: ADULT USES - ACCESSORY:

A. Adult use - accessory shall:

1. Comprise no more than ten percent (10%) of the floor area of the establishment in which it is located.

2. Comprise no more than twenty percent (20%) of the gross receipts of the entire business operation.

3. Not involve or include any activity except the sale or rental of merchandise.

B. Adult use - accessory shall be restricted from and prohibited from access to minors by the physical separation of such items from areas of general public access.

1. Movie Rentals: Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation or shall be in catalogs under the direct control and distribution of the operator.

2. Magazines: Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

3. Other Use: Adult uses - accessory, not specifically cited, shall comply with the intent of this chapter subject to the approval of the zoning administrator.

C. Adult use - accessory shall be prohibited from both internal and external advertising and signing of adult materials and products. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-4, 4-5-1993)

2800.5: NONCONFORMING ADULT USES - PRINCIPAL OR ACCESSORY:

Adult uses which are classified as legal nonconforming uses may continue in accordance with the provisions of this chapter; except, that any such nonconforming use shall be terminated and become illegal on and after July 1, 1998. To the extent possible, the city shall attempt to identify all such uses which become classified as nonconforming under the provisions of this section and shall notify the property owners and operators of such uses in writing of the change in status and the terms and conditions which apply. The owner of any property on which an adult use is located may apply to the city council for an extension of the termination date. Any such application shall be in writing and be received by the city no later than January 1, 1988. Failure to submit a timely extension application shall constitute a waiver of the right to request an exception if, upon the council's determination, the applicant demonstrates that the amortization period is an unreasonable burden upon the business and does not allow adequate time to recover a reasonable return upon the business investment. The applicant shall have the burden of proof to demonstrate hardship with the established termination date and also the time required for an extension. In making its decision, the city council may consider any factor relevant to the issue, including, but not limited to:

A. The degree or magnitude of threat to the public health, safety, and general welfare posed by the secondary impacts of the operation.

B. The length of time that the adult use has been operating.

C. The ease by which the property could be converted to a conforming use.

D. The nature and character of the surrounding neighborhood.

E. The value and condition of the improvements on the property.

F. The amount of the applicant's investment in the business.

G. The amount of investment already realized.

H. The cost of relocating the adult use. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-4, 4-5-1993)

CHAPTER 2900

BREWERIES WITH TAPROOMS/BREWPUBS

SECTION:

2900.1: Purpose

2900.2: Declaration Of Conditions

2900.3: Requirements; General Provisions

2900.1: PURPOSE:

The regulation of breweries in this chapter is to establish standards and procedures by which breweries can be conducted within the city without jeopardizing the health, safety and general welfare of residents and/or the surrounding neighborhood. This chapter establishes the city's minimum requirements for the establishment of a brewery in a commercial district. (Ord. 2014-08, 10-20-2014)

2900.2: DECLARATION OF CONDITIONS:
The planning commission may recommend and the council may impose such conditions on the granting of a brewery conditional use permit as may be necessary to carry out the purpose and provisions of this chapter. (Ord. 2014-08, 10-20-2014)

2900.3: REQUIREMENTS; GENERAL PROVISIONS:
Breweries shall be allowed as a conditional use in the B-2, B-2A, B-3, B-4, and B-W zoning districts, subject to the following criteria:

A. The owner of the brewery qualifies for and receives a state of Minnesota brewer license and a malt liquor wholesale license (if wholesale of malt liquor is an intended activity) from the state of Minnesota, according to Minnesota statutes section 340A.301.

B. An accessory taproom for the on-sale of beer produced on the brewery site shall require a brewery taproom license from the city of Albertville, according to title 4, chapter 1, "Alcoholic Beverages", of the city code.

C. On site sale of beer in the form of growlers shall require a brewery/brewpub license for off-sale of malt liquor, according to title 4, chapter 1, "Alcoholic Beverages", of the city code.

D. The brewery must adhere to the following production limits:

1. A brewery with just a taproom license: Total production of malt liquor may not exceed twenty five thousand (25,000) barrels annually and distribution may not exceed twenty thousand (20,000) barrels annually.

2. A brewery with a license for off-sale of malt liquor: Total production may not exceed twenty thousand (20,000) barrels annually, and liquor sold off-sale may not exceed five hundred (500) barrels.

3. A brewpub: Total retail sales at on- or off-sale may not exceed three thousand five hundred (3,500) barrels per year, and liquor sold off-sale may not exceed five hundred (500) barrels.

4. The brewer shall annually submit production reports with the request to renew a brewer taproom or off-sale malt liquor license.

E. The brewery facility provides adequate space for off street loading and unloading of all trucks greater than twenty two feet (22') in length. In the absence of off street loading, the city may impose limits on deliveries or shipments using the public rights of way, including regulating the number of trucks per day and the hours that deliveries are permitted.

F. Loading docks shall be located and designed so they are screened from adjoining public streets or adjoining residential zoning.

G. No outdoor storage is permitted on the site, with the exception that waste handling (refuse and/or recycling) may occur in an enclosure that is fully screened from adjoining streets and residential zoning.

H. No odors from the business may be perceptible beyond the property line. (Ord. 2014-08, 10-20-2014)

CHAPTER 3000

GENERAL ZONING DISTRICT PROVISIONS

SECTION:

3000.1: Establishment Of Districts

3000.2: Zoning District Boundaries

3000.3: Map

3000.4: Annexed Territory

3000.1: ESTABLISHMENT OF DISTRICTS:
The following zoning districts are hereby established within the city:

Agricultural Districts:	
A-1	Agricultural rural district
A-2	Agricultural transitional district
Residential Districts:	
R-1A	Residential low density single-family district
R-1	Residential single-family district
R-2	Residential single- and two-family district
R-3	Residential single- and two-family district
R-4	Residential two-family, townhouse, quadraminium and low density multiple-family district
R-5	Residential medium density multiple-family district
R-6	Residential high density district
R-7	Residential special purpose, high density district
R-8	Residential mixed housing district
R-MH	Manufactured housing residential district
Business Districts:	
B-2	Limited business district
B-2A	Special business district
B-3	Highway commercial district
B-4	General business district
B-W	Business-warehousing district

Industrial Districts:

I-1	Limited industrial district
I-2	General industrial district

Special Districts:

PUD	Planned unit development district
P/I	Public/institutional district
S	Shoreland overlay district
W	Wetland overlay systems district

(Ord. 1988-12, 12-19-1988; amd. Ord. 1993-5, 4-5-1993; Ord. 1996-14, 6-17-1996; Ord. 1996-15, 6-17-1996; Ord. 2003-30, 11-3-2003; Ord. 2003-32, 11-3-2003; Ord. 2004-27, 12-6-2004; 2005 Code)

3000.2: ZONING DISTRICT BOUNDARIES:
Zoning district boundary lines of this ordinance generally follow lot lines, the center of railroad right of way lines, the center of street rights of way, the center of watercourses or the corporate limit lines, all as they exist upon the effective date hereof.

A. Appeals concerning the exact location of a zoning district boundary line shall be heard by the council serving as the board of adjustment and appeals.

B. When any street, alley or public right of way is vacated by official action of the city, the zoning district abutting the centerline of said alley or other public right of way shall not be affected by such proceeding. (Ord. 1988-12, 12-19-1988)

3000.3: MAP:
The location and boundaries of the districts established by this text are hereby set forth on the zoning map entitled "Zoning Map Of Albertville". Said map shall be on file with the zoning administrator and hereinafter referred to as the "zoning map"; which map, and all the notations, references and other information shown thereon, shall have the same force and effect as if fully set forth herein and thereby made a part of this ordinance by reference. (Ord. 1988-12, 12-19-1988)

3000.4: ANNEXED TERRITORY:
Annexed territory shall be designated in the A-1 district, unless special action pursuant to chapter 300 of this ordinance is taken to place it in another district. (Ord. 1988-12, 12-19-1988)

CHAPTER 3100

A-1 AGRICULTURAL RURAL DISTRICT

SECTION:

3100.1: Purpose

3100.2: Permitted Uses

3100.3: Accessory Uses

3100.4: Conditional Uses

3100.5: Lot Requirements And Setbacks

3100.6: Maximum Building Height

3100.7: Maximum Lot Coverage

3100.1: PURPOSE:
The A-1 Agricultural Rural District is intended to provide a district which will allow suitable areas of the City to be retained and utilized for low density residential, open space and/or agricultural uses, prevent rapid urbanization and provide economy in public expenditures for public utilities and service. (Ord. 1988-12, 12-19-1988)

3100.2: PERMITTED USES:
The following are permitted uses in an A-1 District:

Essential services.

Farming and agricultural activities, plus related buildings and structures, subject to Minnesota pollution control standards, but not including commercial feedlots or other commercial operations.

Nurseries, greenhouses, tree farms and landscape material operations, provided no retail sales are conducted on the site.

Public parks, playgrounds, recreational areas, wildlife areas and game refuges.

Single-family dwellings.

Stands for the sale of agricultural products, provided said products are raised on the premises. (Ord. 1988-12, 12-19-1988)

3100.3: ACCESSORY USES:
The following are permitted accessory uses in an A-1 District:

Buildings and structures for the keeping of animals and storage of related equipment pursuant to section 1000.4 of this ordinance.

Home occupations as regulated by chapter 1600 of this ordinance. This includes State licensed daycare facilities serving fourteen (14) or fewer persons in a single-family dwelling provided they comply with the performance standards outlined in subsections 1600.4A and B of this ordinance.

Living quarters of persons employed on the premises.

Noncommercial greenhouses and conservatories.

Operation and storage of such vehicles, equipment and machinery which are incidental to permitted or conditional uses allowed in the A-1 District.

Private garages, parking spaces and carports for licensed and operable passenger cars and trucks.

Recreational vehicles and recreational equipment.

Swimming pool, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.

The boarding or renting of rooms to not more than two (2) persons.

The keeping of animals per chapter 2300 of this ordinance.

Tool houses, sheds and similar buildings for storage of domestic supplies and noncommercial recreational equipment. (Ord. 1988-12, 12-19-1988; amd. Ord. 2014-03, 2-3-2014)

3100.4: CONDITIONAL USES:
The following are conditional uses in an A-1 District: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

Animal kennels and animal day care. Subject to the following conditions:

A. The facility's minimum size must provide for seventy five (75) square feet per dog and twenty (20) square feet per cat or any other animal boarded at any one time, exclusive of office or storage area. The facility must provide one cage or air kennel per animal.

B. Related ancillary services including training, grooming and food and accessory sales may be conducted or provided at the facility.

C. An exercise area shall be provided to accommodate the periodic exercising of animals boarded at the facility. The exercise area must be one hundred (100) square feet in size for each animal that occupies that area at any one time. Any outdoor exercise area must be fenced, must have a three foot (3') vegetative buffer, must be cleaned regularly, and any animal waste must be appropriately treated before it is allowed to enter any stormwater pond or storm sewer.

D. The facility must have a ventilation system that prohibits the transmission of odors or organisms between tenant bays. The ventilation system must be capable of completely exchanging internal air at a rate of 1.00 cfm/square foot of floor space per area dedicated for the keeping of animals exclusive of offices pursuant to chapter 1346 of the Minnesota State Building Code, as may be amended, these requirements can be met by the submission of an air exchange analysis, acceptable to the City from a Minnesota licensed contractor or engineer confirming compliance with said standards, otherwise, the facility ventilation system must be completely separate and independent of other tenant space within the building. Facility air temperature must be maintained between sixty degrees Fahrenheit (60°F) and eighty degrees Fahrenheit (80°F).

E. A sufficiently sized room/cage separate from the facility areas shall be provided to adequately separate sick or injured animals from healthy animals.

F. Wall finish materials below forty eight inches (48") in height shall be impervious, washable materials like sealed masonry, ceramic tile, glassboard, or marlite. Floor finish shall be sealed concrete or other approved impervious surface. Liquid-tight curbing, at least six inches (6") high, shall be installed along shared walls for sanitary confinement and water wash-down cleaning.

G. Animal wastes shall be immediately cleaned up with solid wastes being enclosed in a container of sufficient construction to eliminate odors and organisms. All animal waste must be properly disposed of daily.

H. The facility must be appropriately licensed per section 6-2-16 of the City Code and all conditions of said section must be satisfied.

I. The property owner shall provide the City with at least fourteen (14) days' notice of the animal kennel/day care intention to vacate the premises and allow a City inspection of the premises.

J. The facility must provide sufficient, uniformly distributed lighting to the kennel area.

K. Veterinary clinics that board ten (10) or fewer animals and pet stores are exempt from this conditional use permit requirement.

L. All requirements of chapter 2300 of this ordinance and section 6-2-18 of the City Code are met.

Cemeteries; provided, that:

A. The site accesses on a minor arterial.

B. The site is landscaped in accordance with section 1000.7 of this ordinance.

C. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Commercial riding stables and veterinary clinics with overnight care and similar uses; provided, that:

A. Any building in which animals are kept, whether roofed shelter or enclosed structure, shall be located a distance of one hundred feet (100') or more from any lot line.

B. The animals shall, at a minimum, be kept in an enclosed pen or corral of sufficient height and strength to retain such animals. Said pen or corral may not be located closer than one hundred feet (100') from a lot line.

C. The provisions of Minnesota Pollution Control Agency regulations SW53(2), as may be amended, are complied with.

D. All other applicable State and local regulations pertaining to nuisance, health and safety conditions, etc., are complied with.

E. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

F. All requirements of chapter 2300 of this ordinance and section 6-2-18 of the City Code are met.

Farm buildings within three hundred feet (300') of an existing residence or residential platted lot; provided, that the provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Golf course and country clubs, swimming pools, ice arenas and similar facilities; provided, that:

A. The principal use, function or activity is recreational in character.

B. Not more than forty percent (40%) of the land area of the site is covered by buildings or structures.

C. When abutting a residential use and a residential use district, the property is screened and landscaped in compliance with section 1000.7 of this ordinance.

D. The land area of the property containing such use or activity meets the minimum established for the district.

E. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Governmental and public related utility buildings and structures necessary for the health, safety and general welfare of the City; provided, that:

A. When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with chapter 1000 of this ordinance.

B. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Small cell wireless support structures. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-2, 2-12-1996; Ord. 2007-05, 5-21-2007; Ord. 2018-08, 3-5-2018; Ord. 2019-13, 12-16-2019)

3100.5: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in an A-1 District, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Ten (10) acres.

B. Lot width: Three hundred feet (300').

C. Setbacks:

1. Front yard: One hundred fifty feet (150') from the centerline of the public road or one hundred feet (100') from the property line, whichever is greater.

2. Side yard:

a. Interior lots: Twenty feet (20').

b. Corner lots: Seventy five feet (75') from the property line.

3. Rear yard: Fifty feet (50'). (Ord. 1988-12, 12-19-1988)

3100.6: MAXIMUM BUILDING HEIGHT:
(The height provisions of subsection 1100.3B of this ordinance shall also be considered.)

A. Dwelling units or principal buildings: Thirty five feet (35').

B. Accessory buildings: As governed by section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988)

3100.7: MAXIMUM LOT COVERAGE:
No structures or combination of structures may occupy more than ten percent (10%) of the lot area. (Ord. 1988-12, 12-19-1988)

CHAPTER 3200

A-2 AGRICULTURAL TRANSITIONAL DISTRICT

SECTION:

3200.1: Purpose

3200.2: Permitted Uses

3200.3: Accessory Uses

3200.4: Conditional Uses

3200.5: Lot Requirements And Setbacks

3200.6: Maximum Building Height

3200.7: Maximum Lot Coverage

3200.1: PURPOSE:
The purpose of the A-2 agricultural transitional district is to provide for hobby farms and large lots, low density single-family detached residential dwelling units and directly related, complementary uses in areas of the city not containing urban services. (Ord. 1988-12, 12-19-1988)

3200.2: PERMITTED USES:
The following are permitted uses in an A-2 district:

Agriculture, farming and truck gardening, except kennels, animal or poultry farms operated for commercial purposes.

Essential services.

Hobby farms.

Public parks and playgrounds.

Single-family detached dwellings. (Ord. 1988-12, 12-19-1988)

3200.3: ACCESSORY USES:
The following are permitted accessory uses in an A-2 district:

Boarding or renting of rooms to not more than one person.

Buildings and structures for the keeping of animals and storage of related equipment pursuant to section 1000.4 of this ordinance.

Home occupations as regulated by chapter 1600 of this ordinance. This includes state licensed daycare facilities serving fourteen (14) or fewer persons in a single-family dwelling provided they comply with the performance standards outlined in subsections 1600.4A and B of this ordinance.

Noncommercial greenhouses and conservatories.

Private garages, parking spaces and carports for licensed and operable passenger cars and trucks not to exceed a gross weight of twelve thousand (12,000) pounds, as regulated by subsection 1200.4F of this ordinance. Private garages are intended for use to store the private passenger vehicles of the family or families resident upon the premises, and in which no business, service or industry is carried on. Such space can be rented to nonresidents of the property for private passenger vehicles and/or noncommercial vehicles, trailers, or equipment if sufficient off street parking in full compliance with this ordinance is provided elsewhere on the property.

Recreational vehicles and equipment.

Swimming pool, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.

The keeping of animals per chapter 2300 of this ordinance.

Tool houses, sheds and similar buildings for storage of domestic supplies and noncommercial recreational equipment. (Ord. 1988-12, 12-19-1988; amd. Ord. 2014-03, 2-3-2014)

3200.4: CONDITIONAL USES:
The following are conditional uses in an A-2 district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

Commercial greenhouses, nurseries, and landscaping operations; provided, that:

A. At the boundaries of a residential district, a strip of not less than five feet (5') shall be landscaped and screened in compliance with section 1000.7 of this ordinance.

B. Parking areas shall be screened from view of abutting residential districts in compliance with section 1000.7 of this ordinance.

C. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movements, shall comply with chapter 1200 of this ordinance and shall be subject to the approval of the city engineer.

D. All lighting shall be hooded and so directed that the light source is not visible from the public right of way or from an abutting residence and shall be in compliance with section 1000.10 of this ordinance.

E. The entire area shall have a drainage system which is subject to the approval of the city engineer.

F. Outdoor sales/display area shall be limited to thirty percent (30%) of the gross lot area and shall not take up required parking and/or loading areas as required by this ordinance.

G. All signing and informational or visual communication devices shall be in compliance with the provisions of the city code relating to signs[1].

H. All conditions pertaining to a specific site are subject to change when the council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions.

I. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Farm buildings within three hundred feet (300') of an existing residence or residential platted lot; provided, that the provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the city; provided, that:

A. Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.

B. Equipment is completely enclosed in a permanent structure with no outside storage.

C. Adequate screening from neighboring uses and landscaping is provided in compliance with section 1000.7 of this ordinance.

D. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met. (Ord. 1988-12, 12-19-1988; amd. Ord. 2007-12, 10-1-2007)

Notes

[1] 1. See title 10, chapter 7 of the city code.

3200.5: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in an A-2 district, subject to the additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Two and one-half ($2^1/_2$) acres.

B. Lot width: Three hundred feet (300').

C. Setbacks:

1. Front yard: One hundred fifty feet (150') from the centerline of the public road or one hundred feet (100') from the property line, whichever is greater.

2. Side yard:

a. Interior lots: Twenty feet (20').

b. Corner lots: Seventy five feet (75') from the property line.

3. Rear yard: Fifty feet (50'). (Ord. 1988-12, 12-19-1988)

3200.6: MAXIMUM BUILDING HEIGHT:
(The height provisions of subsection 1100.3B of this ordinance shall also be considered.)

A. Dwelling units or principal buildings: Thirty five feet (35').

B. Accessory buildings: As governed by section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988)

3200.7: MAXIMUM LOT COVERAGE:
No structure or combination of structures shall occupy more than ten percent (10%) of the lot area. (Ord. 1988-12, 12-19-1988)

CHAPTER 3250

R-1A RESIDENTIAL LOW DENSITY SINGLE-FAMILY DISTRICT

SECTION:

3250.1: Purpose

3250.2: Permitted Uses

3250.3: Accessory Uses

3250.4: Conditional Uses

3250.5: Interim Uses

3250.6: Lot Requirements And Setbacks

3250.7: Maximum Building Height

3250.8: Maximum Lot Coverage

3250.1: PURPOSE:
The purpose of the R-1A residential low density single-family district is to provide for an exclusive low density, large lot single-family detached dwelling unit area, and directly related, complementary uses. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

3250.2: PERMITTED USES:
The following are permitted uses within an R-1A district:

Essential services, excluding buildings.

Public parks and playgrounds.

Residential care facilities serving six (6) or fewer persons in a single-family dwelling.

Single-family detached dwellings. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996; Ord. 2014-03, 2-3-2014)

3250.3: ACCESSORY USES:
The following are permitted accessory uses in an R-1A district:

All permitted accessory uses as allowed in the A-2 zoning district (section 3200.3 of this ordinance) except the keeping of animals and buildings and structures related thereto.

Buildings and structures for the keeping of domestic animals per chapter 2300 of this ordinance and section 6-2-18 of the city code.

Radio and television receiving antennas including single satellite dish TVROs two meters (2m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by chapter 2500 of this ordinance.

The keeping of domestic animals and private kennels on single-family lots only per chapter 2300 of this ordinance and section 6-2-18 of the city code. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996; Ord. 1997-2, 6-3-1997; Ord. 2007-05, 5-21-2007)

3250.4: CONDITIONAL USES:
The following are conditional uses in an R-1A district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

Single satellite dish TVROs greater than one meter (1m) in diameter as regulated by chapter 2500 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996; Ord. 1997-2, 6-3-1997; Ord. 2007-12, 10-1-2007)

3250.5: INTERIM USES:
The following are interim uses within an R-1A district:

None. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

3250.6: LOT REQUIREMENTS AND SETBACKS:
The following requirements shall be observed in an R-1A district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Fifteen thousand (15,000) square feet.

B. Lot width:

1. Interior: One hundred feet (100').
2. Corner: One hundred twenty feet (120').

C. Setbacks:

1. Front yard: Not less than thirty feet (30').
2. Side yard:
 a. Interior lots: Ten feet (10') each.
 b. Corner lots: Not less than twenty feet (20') on the side yard abutting a public street.

3. Rear yard:

a. Principal building: Twenty five feet (25').

b. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996; Ord. 2009-017, 11-2-2009; Ord. 2015-07, 8-17-2015)

3250.7: MAXIMUM BUILDING HEIGHT:

A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

3250.8: MAXIMUM LOT COVERAGE:

No structure or combination of structures shall occupy more than twenty five percent (25%) of the lot area. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

CHAPTER 3300

R-1 RESIDENTIAL SINGLE-FAMILY DISTRICT

SECTION:

3300.1: Purpose

3300.2: Permitted Uses

3300.3: Accessory Uses

3300.4: Conditional Uses

3300.5: Interim Uses

3300.6: Lot Requirements And Setbacks

3300.7: Maximum Building Height

3300.8: Maximum Lot Coverage

3300.1: PURPOSE:

The purpose of the R-1 residential single-family district is to provide for exclusive low density single-family detached residential dwelling units and directly related complementary uses. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

3300.2: PERMITTED USES:

The following are permitted uses in an R-1 district:

All permitted uses as provided in the R-1A district (section 3250.2 of this ordinance). (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

3300.3: ACCESSORY USES:

The following are permitted accessory uses in an R-1 district:

All permitted accessory uses as allowed in the R-1A zoning district (section 3250.3 of this ordinance). (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

3300.4: CONDITIONAL USES:

The following are conditional uses in an R-1 district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses, subject to the same stipulations, as in the R-1A district (section 3250.4 of this ordinance). (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

3300.5: INTERIM USES:

The following are interim uses within an R-1 district:

All interim uses, subject to the same stipulations as in the R-1A district (section 3250.5 of this ordinance). (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

3300.6: LOT REQUIREMENTS AND SETBACKS:

The following minimum requirements shall be observed in an R-1 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Twelve thousand five hundred (12,500) square feet.

B. Lot width:

1. Interior: Ninety feet (90').

2. Corner: One hundred feet (100').

C. Setbacks:

1. Front yard: Not less than thirty feet (30').

2. Side yard:

a. Interior lots: Not less than ten feet (10') each.

b. Corner lot: Not less than twenty feet (20') on the side yard abutting a public street.

3. Rear yard:

a. Principal building: Twenty five feet (25').

b. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996; Ord. 2009-017, 11-2-2009)

3300.7: MAXIMUM BUILDING HEIGHT:

A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

3300.8: MAXIMUM LOT COVERAGE:

No structure or combination of structures shall occupy more than twenty five percent (25%) of the lot area. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-15, 6-17-1996)

CHAPTER 3400

R-2 RESIDENTIAL SINGLE- AND TWO-FAMILY DISTRICT

SECTION:

3400.1: Purpose

3400.2: Permitted Uses

3400.3: Accessory Uses

3400.4: Conditional Uses

3400.5: Lot Requirements And Setbacks

3400.6: Maximum Building Height

3400.7: Maximum Lot Coverage

3400.1: PURPOSE:

The purpose of the R-2 residential single- and two-family district is to provide for low density one- and two-unit dwellings and directly related, complementary uses. (Ord. 1988-12, 12-19-1988)

3400.2: PERMITTED USES:

The following are permitted uses in an R-2 district:

All permitted uses as provided for in the R-1 district (section 3300.2 of this ordinance).

Two-family dwelling units. (Ord. 1988-12, 12-19-1988)

3400.3: ACCESSORY USES:

The following are permitted accessory uses in an R-2 district:

All permitted accessory uses as allowed in an R-1 district (section 3300.3 of this ordinance). (Ord. 1988-12, 12-19-1988)

3400.4: CONDITIONAL USES:

The following are conditional uses in an R-2 district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses, subject to the same conditions, as in an R-1 district (section 3300.4 of this ordinance). (Ord. 1988-12, 12-19-1988)

3400.5: LOT REQUIREMENTS AND SETBACKS:

The following minimum requirements shall be observed in an R-2 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Fifteen thousand (15,000) square feet.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front yard: Not less than thirty feet (30').

2. Side yard:

a. Interior lots:

(1) Single-family and two-family dwellings: Not less than ten feet (10'), except a five foot (5') side yard setback is permitted for an attached garage and any living space constructed above the attached garage footprint.

(2) All other uses: Not less than ten feet (10') each.

b. Corner lots: Not less than twenty feet (20') on the side yard abutting a public street.

3. Rear yard:

a. Principal building: Twenty five feet (25').

b. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2009-017, 11-2-2009; Ord. 2015-07, 8-17-2015)

3400.6: MAXIMUM BUILDING HEIGHT:

A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988)

3400.7: MAXIMUM LOT COVERAGE:

No structures or combination of structures shall occupy more than thirty percent (30%) of the lot area. (Ord. 1988-12, 12-19-1988)

CHAPTER 3500

R-3 RESIDENTIAL SINGLE- AND TWO-FAMILY DISTRICT

SECTION:

3500.1: Purpose

3500.2: Permitted Uses

3500.3: Accessory Uses

3500.4: Conditional Uses

3500.5: Lot Requirements And Setbacks

3500.6: Maximum Building Height

3500.7: Maximum Lot Coverage

3500.1: PURPOSE:
The purpose of the R-3 residential single- and two-family district is to provide for moderate density one- and two-unit dwellings and directly related, complementary uses. (Ord. 1988-12, 12-19-1988)

3500.2: PERMITTED USES:
The following are permitted uses in an R-3 district:

All permitted uses as provided for in the R-2 district (section 3400.2 of this ordinance). (Ord. 1988-12, 12-19-1988)

3500.3: ACCESSORY USES:
The following are permitted accessory uses in an R-3 district:

All permitted accessory uses as allowed in an R-2 district (section 3400.3 of this ordinance). (Ord. 1988-12, 12-19-1988)

3500.4: CONDITIONAL USES:
The following are conditional uses in an R-3 district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses, subject to the same conditions, as in an R-2 district (section 3400.4 of this ordinance).

Small cell wireless support structures. (Ord. 1988-12, 12-19-1988; Ord. 2019-13, 12-16-2019)

3500.5: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in an R-3 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Twelve thousand five hundred (12,500) square feet.

B. Lot width: Ninety feet (90').

C. Setbacks:

1. Front yard: Not less than thirty feet (30').

2. Side yard:

a. Interior lots:

(1) Single-family and two-family dwellings: Not less than ten feet (10'), except a five foot (5') side yard setback is permitted for an attached garage and any living space constructed above the attached garage footprint.

(2) All other uses: Not less than ten feet (10') each.

b. Corner lots: Not less than twenty feet (20') on the side yard abutting a public street.

3. Rear yard:

a. Principal building: Twenty five feet (25').

b. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2009-017, 11-2-2009)

3500.6: MAXIMUM BUILDING HEIGHT:
A. Principal building: Twenty five feet (25').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988)

3500.7: MAXIMUM LOT COVERAGE:
No structure or combination of structures shall occupy more than thirty percent (30%) of the lot area. (Ord. 1988-12, 12-19-1988)

CHAPTER 3600

R-4 RESIDENTIAL TWO-FAMILY, TOWNHOUSE, QUADRAMINIUM AND LOW DENSITY MULTIPLE-FAMILY DISTRICT

SECTION:

3600.1: Purpose

3600.2: Permitted Uses

3600.3: Accessory Uses

3600.4: Conditional Uses

3600.5: Lot Requirements And Setbacks

3600.6: Maximum Building Height

3600.7: Maximum Lot Coverage

3600.1: PURPOSE:
The purpose of the R-4 residential two-family, townhouse, quadraminium and low density multiple-family district is to provide for low to moderate density through the mixture of one- and two-unit and medium density dwellings and directly related, complementary uses. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

3600.2: PERMITTED USES:
The following are permitted uses in an R-4 district:

All permitted uses allowed in an R-3 district (section 3500.2 of this ordinance).

Threeplex, fourplex, and sixplex multiple-family units.

Townhouses, quadraminiums and manor (six-unit) homes. (Ord. 1988-12, 12-19-1988)

3600.3: ACCESSORY USES:
The following are permitted accessory uses in an R-4 district:

All accessory uses as allowed in an R-3 district (section 3500.3 of this ordinance), except for private kennels. (Ord. 1988-12, 12-19-1988; amd. Ord. 2007-05, 5-21-2007)

3600.4: CONDITIONAL USES:
The following are conditional uses in an R-4 district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses, subject to the same conditions, as allowed in an R-3 district (section 3500.4 of this ordinance).

Small cell wireless support structures. (Ord. 1988-12, 12-19-1988; Ord. 2019-13, 12-16-2019)

3600.5: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in an R-4 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Fifteen thousand (15,000) square feet and subject to section 1100.9 of this ordinance.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front yard:

a. Single-family dwellings, two-family dwellings, and townhouses: Not less than thirty feet (30').

b. Multiple-family dwellings: Not less than thirty five feet (35').

2. Side yard:

a. Interior lots:

(1) Single-family and two-family dwellings: Not less than ten feet (10'), except a five foot (5') side yard setback is permitted for an attached garage and any living space constructed above the attached garage footprint.

(2) All other uses: Not less than ten feet (10') each.

b. Corner lots: Not less than twenty feet (20') on the side yard abutting a public street.

3. Rear yard:

a. Principal buildings: Thirty feet (30').

b. Accessory buildings: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2009-017, 11-2-2009)

3600.6: MAXIMUM BUILDING HEIGHT:
A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988)

3600.7: MAXIMUM LOT COVERAGE:
No structure or combination of structures shall occupy more than forty percent (40%) of the lot area. (Ord. 1988-12, 12-19-1988)

CHAPTER 3700

R-5 RESIDENTIAL MEDIUM DENSITY MULTIPLE-FAMILY DISTRICT

SECTION:

3700.1: Purpose

3700.2: Permitted Uses

3700.3: Accessory Uses

3700.4: Conditional Uses

3700.5: Lot Requirements And Setbacks

3700.6: Maximum Building Height

3700.7: Maximum Lot Coverage

3700.1: PURPOSE:
The purpose of the R-5 residential medium density multiple-family district is to provide for medium density housing in multiple- family structures ranging up to and including twelve (12) units and directly related uses. (Ord. 1988-12, 12-19-1988)

3700.2: PERMITTED USES:
The following are permitted uses in an R-5 district:

All permitted uses allowed in an R-4 district (section 3600.2 of this ordinance), except single- and two-family dwellings.

Multiple-family dwelling structures containing twelve (12) or less dwelling units. (Ord. 1988-12, 12-19-1988)

3700.3: ACCESSORY USES:
The following are permitted accessory uses in an R-5 district:

All accessory uses as allowed in an R-4 district (section 3600.3 of this ordinance). (Ord. 1988-12, 12-19-1988)

3700.4: CONDITIONAL USES:
The following are conditional uses in an R-5 district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses, subject to the same conditions, as allowed in an R-4 district (section 3600.4 of this ordinance).

Small cell wireless support structures. (Ord. 1988-12, 12-19-1988; Ord. 2019-13, 12-16-2019)

3700.5: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in an R-5 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Fifteen thousand (15,000) square feet and subject to section 1100.9 of this ordinance.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front yard:

 a. Townhouses: Not less than thirty feet (30').

 b. Multiple-family dwellings: Not less than thirty five feet (35').

2. Side yard:

 a. Interior lots: Not less than ten feet (10') each.

 b. Corner lots: Not less than thirty feet (30') on the side yard abutting a public street.

3. Rear yard:

 a. Principal building: Thirty feet (30').

 b. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2009-017, 11-2-2009)

3700.6: MAXIMUM BUILDING HEIGHT:
A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988)

3700.7: MAXIMUM LOT COVERAGE:
No structure or combination of structures shall occupy more than fifty percent (50%) of the lot area. (Ord. 1988-12, 12-19-1988)

CHAPTER 3800

R-6 RESIDENTIAL HIGH DENSITY DISTRICT

SECTION:

3800.1: Purpose

3800.2: Permitted Uses

3800.3: Accessory Uses

3800.4: Conditional Uses

3800.5: Lot Requirements And Setbacks

3800.6: Maximum Building Height

3800.7: Maximum Lot Coverage

3800.1: PURPOSE:
The purpose of the R-6 high density residential district is to provide for high density housing and directly related, complementary uses. (Ord. 1988-

12, 12-19-1988)

3800.2: PERMITTED USES:
The following are permitted uses in an R-6 district:

All permitted uses allowed in an R-5 district (section 3700.2 of this ordinance).

Multiple-family dwelling structures containing more than twelve (12) dwelling units. (Ord. 1988-12, 12-19-1988)

3800.3: ACCESSORY USES:
The following are permitted accessory uses in an R-6 district:

All permitted accessory uses allowed in an R-5 district (section 3700.3 of this ordinance).

Off street loading. (Ord. 1988-12, 12-19-1988)

3800.4: CONDITIONAL USES:
The following are conditional uses in an R-6 district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses, subject to the same conditions, as allowed in an R-5 district (section 3700.4 of this ordinance).

Multiple-family structure density bonus. A maximum reduction of five hundred (500) square feet of lot area per unit for multiple-family dwellings of ten (10) units or more as required in section 1100.9 of this ordinance based upon the following bonus features and square foot reductions:

Bonus Feature	Square Foot Reduction Per Unit
Elevator serving each floor	75 square feet
Indoor recreation and social rooms equal to 25 square feet per unit or 750 square feet total, whichever is greater	50 square feet
Major outdoor recreational facilities such as swimming pools, tennis courts or similar facilities requiring a substantial investment equaling at minimum 95 percent of the construction cost of the principal structure	75 square feet
$^{2}/_{3}$ of the required fee for parking underground or within the principal structure (not including attached or detached garages)	175 square feet
Type 2 construction	125 square feet

Small cell wireless support structures. (Ord. 1988-12, 12-19-1988; Ord. 2019-13, 12-16-2019)

3800.5: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in an R-6 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Fifteen thousand (15,000) square feet and subject to section 1100.9 of this ordinance.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front yard:
 a. Townhouses: Not less than thirty feet (30').
 b. Multiple-family dwellings: Not less than thirty five feet (35').
2. Side yard:
 a. Interior lots: Not less than ten feet (10') each.
 b. Corner lots: Not less than twenty feet (20') on the side yard abutting a public street.
3. Rear yard:
 a. Principal buildings: Thirty feet (30').
 b. Accessory buildings: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2009-017, 11-2-2009)

3800.6: MAXIMUM BUILDING HEIGHT:
A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988)

3800.7: MAXIMUM LOT COVERAGE:
No structure or combination of structures shall occupy more than sixty percent (60%) of the lot area. (Ord. 1988-12, 12-19-1988)

CHAPTER 3900

R-7 RESIDENTIAL SPECIAL PURPOSE, HIGH DENSITY DISTRICT

SECTION:

3900.1: Purpose

3900.2: Permitted Uses

3900.3: Accessory Uses

3900.4: Conditional Uses

3900.5: Lot Requirements And Setbacks

3900.6: Maximum Building Height

3900.7: Maximum Lot Coverage

3900.1: PURPOSE:
The R-7 residential special purpose, high density zoning district is intended to provide a district for high density multiple- family housing and special purpose residential dwellings. (Ord. 1988-12, 12-19-1988)

3900.2: PERMITTED USES:
The following are permitted uses within an R-7 district:

All permitted uses allowed within an R-6 district (section 3800.2 of this ordinance). (Ord. 1988-12, 12-19-1988)

3900.3: ACCESSORY USES:
The following are permitted accessory uses within an R-7 district:

All permitted accessory uses allowed within an R-6 district (section 3800.3 of this ordinance). (Ord. 1988-12, 12-19-1988)

3900.4: CONDITIONAL USES:
The following are conditional uses in an R-7 district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses, subject to the same conditions, as allowed in an R-6 district (section 3800.4 of this ordinance).

Elderly (senior citizen) housing; provided, that:

A. Not more than ten percent (10%) of the occupants may be persons sixty (60) years of age or under.

B. To continue to qualify for the elderly housing classification, the owner or agency shall annually file with the city administrator a certified copy of a monthly resume of occupants of such a multiple dwelling, listing the number of tenants by age and clearly identifying and setting forth the relationship of all occupants sixty (60) years of age or under to qualified tenants, or to the building.

C. There is adequate off street parking in compliance with chapter 1200 of this ordinance.

D. One off street loading space in compliance with chapter 1300 of this ordinance.

E. Parking areas are screened and landscaped from view of surrounding and abutting residential districts in compliance with section 1000.7 of this ordinance.

F. All signing and informational or visual communication devices shall be in compliance with the provisions of the city code relating to signs[1] .

G. The principal use structure is in compliance with the Minnesota state building code[2] .

H. Elevator service is provided to each floor level above ground floor.

I. "Usable open space", as defined in section 200.2 of this ordinance, at a minimum, is equal to twenty percent (20%) of the gross lot area.

J. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Nursing homes and similar group housing, but not including hospitals, sanitariums or similar institutions; provided, that:

A. Side yards are double the minimum requirements established for the R-7 district and are screened in compliance with section 1000.7 of this ordinance.

B. Only the rear yard shall be used for play or recreational areas. Said area shall be fenced and controlled and screened in compliance with section 1000.7 of this ordinance.

C. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.

D. All signing and informational or visual communication devices shall be in compliance with the provisions of the city code relating to signs[1] .

E. All state laws and statutes governing such uses are strictly adhered to and all required operating permits are secured.

F. Adequate off street parking is provided in compliance with chapter 1200 of this ordinance.

G. One off street loading space in compliance with chapter 1300 of this ordinance is provided.

H. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Small cell wireless support structures. (Ord. 1988-12, 12-19-1988; amd. 2005 Code; Ord. 2019-13, 12-16-2019)

Notes

1 1. See title 10, chapter 7 of the city code.

2 2. See section 10-2-1 of the city code.

1 1. See title 10, chapter 7 of the city code.

3900.5: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in an R-7 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Fifteen thousand (15,000) square feet and subject to section 1100.9 of this ordinance.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front yard: Not less than thirty feet (30').

a. Townhouses: Not less than thirty feet (30').

b. Multiple-family dwellings and other housing: Not less than thirty five feet (35').

2. Side yard:

a. Interior lots: Not less than ten feet (10') each.

b. Corner lots: Not less than thirty feet (30') on the side yard abutting a public street.

3. Rear yard:

a. Principal buildings: Thirty feet (30').

b. Accessory buildings: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2009-017, 11-2-2009)

3900.6: MAXIMUM BUILDING HEIGHT:

A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988)

3900.7: MAXIMUM LOT COVERAGE:

No structure or combination of structures shall occupy more than sixty percent (60%) of the lot area. (Ord. 1988-12, 12-19-1988)

CHAPTER 4000

R-8 RESIDENTIAL MIXED HOUSING DISTRICT

SECTION:

4000.1: Purpose

4000.2: Permitted Uses

4000.3: Accessory Uses

4000.4: Conditional Uses

4000.5: Lot Requirements And Setbacks

4000.6: Maximum Building Height

4000.7: Maximum Lot Coverage

4000.1: PURPOSE:

The R-8 residential mixed housing district is intended to provide a district which allows for a full and complete range and intermixing of residential activities, and to accommodate development in areas which existed prior to the establishment of this ordinance. (Ord. 1988-12, 12-19-1988)

4000.2: PERMITTED USES:

The following are permitted uses within an R-8 district:

All permitted uses in the R-1 through R-7 zoning districts. (Ord. 1988-12, 12-19-1988)

4000.3: ACCESSORY USES:

The following are permitted accessory uses within the R-8 zoning district:

All permitted accessory uses within the R-1 through R-7 zoning districts. (Ord. 1988-12, 12-19-1988)

4000.4: CONDITIONAL USES:

The following are conditional uses in an R-8 district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses, subject to the same conditions, as allowed in the R-1 through R-7 zoning districts.

Small cell wireless support structures. (Ord. 1988-12, 12-19-1988; amd. Ord. 2019-13, 12-16-2019)

4000.5: LOT REQUIREMENTS AND SETBACKS:

The following minimum requirements shall be observed in an R-8 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Twelve thousand five hundred (12,500) square feet.

B. Lot width: Ninety feet (90').

C. Setbacks:

1. Front yard:

a. Townhouses: Not less than thirty feet (30').

b. Multiple-family dwellings and other housing: Not less than thirty five feet (35').

2. Side yard:

a. Interior lots:

(1) Single-family and two-family dwellings: Not less than ten feet (10'), except a five foot (5') side yard setback is permitted for an attached garage and any living space constructed above the attached garage footprint.

(2) All other uses: Not less than ten feet (10') each.

b. Corner lots: Not less than twenty feet (20') on the side yard abutting a public street.

3. Rear yard:

a. Principal buildings: Twenty five feet (25').

b. Accessory buildings: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2009-017, 11-2-2009)

4000.6: MAXIMUM BUILDING HEIGHT:

A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988)

4000.7: MAXIMUM LOT COVERAGE:

No structure or combination of structures shall occupy more than sixty percent (60%) of the lot area. (Ord. 1988-12, 12-19-1988)

CHAPTER 4100

R-MH MANUFACTURED HOUSING RESIDENTIAL DISTRICT

SECTION:

4100.1: Purpose

4100.2: Permitted Uses

4100.3: Accessory Uses

4100.4: Conditional Uses

4100.5: Design/Operational Standards For Manufactured Housing

4100.6: Registration

4100.7: Maintenance

4100.8: Review Procedures

4100.1: PURPOSE:

The purpose of an R-MH manufactured housing residential district is to provide a separate district for manufactured housing parks, distinct from other residential areas. (Ord. 1988-12, 12-19-1988)

4100.2: PERMITTED USES:

The following uses are permitted uses in an R-MH district:

Single-family detached manufactured housing units. (Ord. 1988-12, 12-19-1988)

4100.3: ACCESSORY USES:

The following are permitted accessory uses in an R-MH district:

Any accessory use allowed in an A-2 district (section 3200.3 of this ordinance), except the keeping of animals and buildings and structures related thereto.

Buildings and structures for the keeping of domestic animals per chapter 2300 of this ordinance and section 6-2-18 of the city code.

Community laundry facilities, storm shelter, park office, and recreational building(s); provided, that such structures are of a permanent nature and comply with the provisions of the state building code [1] .

The keeping of domestic animals and private kennels per chapter 2300 of this ordinance and section 6-2-18 of the city code. (Ord. 1988-12, 12-19-1988; amd. Ord. 2007-05, 5-21-2007)

Notes

[1] 1. See section 10-2-1 of the city code.

4100.4: CONDITIONAL USES:

The following are conditional uses in an R-MH district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses, subject to the same conditions, as allowed in an A-2 district (section 3200.4 of this ordinance), except farm buildings.

Small cell wireless support structures. (Ord. 1988-12, 12-19-1988; amd. Ord. 2019-13, 12-16-2019)

4100.5: DESIGN/OPERATIONAL STANDARDS FOR MANUFACTURED HOUSING:

A. General Provisions:

1. All land area shall be: a) adequately drained; b) landscaped to control dust; c) clean and free from refuse, garbage, rubbish or debris.
2. No tents shall be used for other than recreational purposes in a manufactured housing park.
3. There shall be no outdoor camping anywhere in a manufactured housing park.
4. Access to manufactured housing parks shall be as approved by the city.

5. All structures (fences, storage, cabanas, etc.) shall require a building permit from the building official.

6. The area beneath a manufactured housing unit shall be enclosed; except, that such enclosure must have access for inspection.

7. Laundry and clothing shall be hung out to dry only on lines located in city approved areas established and maintained exclusively for that purpose, as identified on the manufactured housing park site plan.

8. A manufactured housing park shall have an adequate central community building with the following features: a) laundry drying areas and machines; b) laundry washing machines; c) public toilets and lavatories; d) storm shelter. Such buildings shall have adequate heating in all areas and be maintained in a safe, clean and sanitary condition.

B. Site Plan Requirements: The following shall be required on the site plan:

1. Legal description and size in square feet of the proposed manufactured housing park.

2. Location and size of all manufactured housing unit sites, dead storage areas, recreation areas, laundry drying areas, streets and roadways, parking sites, and all setback dimensions (parking spaces, exact mobile home sites, etc.).

3. Detailed landscaping plans and specifications.

4. Location and width of sidewalks.

5. Plans for sanitary sewage disposal, surface drainage, water systems, underground electrical service and gas service.

6. Location and size of all streets abutting the manufactured housing park and all driveways from such streets to the manufactured housing park.

7. Street and road construction plans and specifications.

8. Plans for any and all structures.

9. Such other information as required or implied by these manufactured park standards or requested by public officials.

10. Name and address of developer(s) and/or owner(s).

11. Description of the method of disposing of garbage and refuse.

12. Detailed description of maintenance procedures and grounds supervision.

13. Details as to whether all of the area will be developed or a portion at a time.

C. Design Standards:

1. Park Size: The minimum area required for a manufactured housing park designation shall be five (5) acres.

2. Individual Manufactured Housing Site (Homes 14 Feet Wide Or Less):

a. Each manufactured housing site shall contain at least five thousand (5,000) square feet of land area for the exclusive use of the occupant.

(1) Width: No less than fifty feet (50').

(2) Depth: No less than one hundred feet (100').

b. Each manufactured housing site shall have frontage on an approved street or roadway, and the corner of each manufactured home shall be marked and each site shall be numbered.

3. Individual Home Sites (Homes In Excess Of 14 Feet, But Less Than 18 Feet In Width):

a. Each manufactured housing site shall contain at least six thousand fifty (6,050) square feet of land area for the exclusive use of the occupants.

(1) Width: No less than fifty five feet (55').

(2) Depth: No less than one hundred ten feet (110').

b. Each manufactured housing site shall have frontage on an approved street or roadway, and the corner of each manufactured home site shall be marked, and each site shall be numbered.

4. Individual Manufactured Housing Sites (Homes Over 18 Feet In Width):

a. Each manufactured housing site shall contain at least six thousand five hundred (6,500) square feet of land area for the exclusive use of the occupant.

b. Each manufactured housing site shall have frontage on an approved street or roadway, and the corner of each manufactured home site shall be marked, and each site shall be numbered.

5. Individual Manufactured Housing Unit Site Setbacks:

a. In all manufactured housing parks, no housing unit shall be located closer than ten feet (10') to its side lot lines nor closer than thirty feet (30') to its front lot line, or within ten feet (10') of its rear lot line.

b. All accessory structures such as awnings, cabanas, storage sheds, carports, windbreaks, entryways or solar energy system shall be located no closer than three feet (3') from any property line and in no case closer than ten feet (10') to the nearest adjoining manufactured home.

6. Building Requirements:

a. No principal structure shall exceed one story or twenty five feet (25'), whichever is less.

b. No accessory structure shall exceed the height limit set out in subsection 1000.4G of this ordinance.

c. The unit structure is in compliance with "The Guidelines for Manufactured Housing Installation", International Conference of Building Officials, 1983, as may be amended.

d. No manufactured home stand shall be used for parking more than one manufactured home.

7. Parking [1] :

a. Each manufactured housing site shall have enclosed off street parking space for two (2) automobiles. All parking stalls shall be completely on the home lot they serve.

b. Each manufactured housing park shall maintain additional hard surfaced off street parking lot(s) for guests of occupants in the amount of one space for each three (3) home sites.

c. Access drives off streets and roads to all parking spaces and unit sites shall be hard surfaced according to specifications established by the City.

8. Utilities:

a. All manufactured housing units shall be connected to a public water and sanitary sewer system or a private water and sewer system approved by the State Department of Health.

b. All installation for disposal of surface stormwater must be approved by the City.

c. All utility connections shall be as approved by the City.

d. The source of fuel for cooking, heating or other purposes of each manufactured housing site shall be as approved by the City.

e. All utilities shall be underground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.

f. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related manufactured home equipment.

g. The owner shall pay any required sewer connection fees[2] to the City.

h. The owner shall pay inspection and testing fees for utility service to the City.

i. Facilities for fire protection shall be installed as required by the City.

9. Internal Roads And Streets:

a. Roads and streets shall be bitumen or concrete surfaced as approved by the City.

b. All roads and streets shall have a concrete (mountable, roll type) curb and gutter.

c. All streets shall be developed with a roadbed of not less than twenty four feet (24') in width. If parking is permitted on the street, then the roadbed shall be at least thirty six feet (36') in width. To qualify for the lesser sized street, adequate off street parking must be provided and demonstrated.

d. The manufactured home park shall have a street lighting plan approved by the city.

10. Recreation:

a. All manufactured housing parks shall have at least twenty percent (20%) of the land area developed for recreational use (tennis courts, children's play equipment, swimming pool, golf green, etc.) developed and maintained at the owner/operator's expense.

b. In lieu of land dedication for public park purposes, a cash contribution as established by city subdivision regulations, as may be amended[1], shall be paid to the city.

11. Landscaping:

a. Each site shall be properly landscaped with trees, hedges, grass, fences, windbreaks and the like.

b. A compact hedge, fence or landscaped area shall be installed around each manufactured home park and shall be maintained in first class condition at all times as approved.

c. All areas shall be landscaped in accordance with landscaping plan approved by the council.

12. Lighting:

a. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment and the like.

b. The manufactured housing park grounds shall be lighted, as approved by the city, from sunset to sunrise.

13. Storage:

a. Enclosed storage lockers (when provided) shall be located, whether adjacent to the manufactured home in a manufactured housing park or at such other place in the park, as to be convenient to the unit for which it is provided.

b. Storage of large items such as boats, boat trailers, recreation vehicles, etc., shall be accommodated in a separate secured and screened area of the park. No parking of such vehicles or equipment shall be permitted on the housing site.

14. General: For those items not specifically referenced, the design standards as established by the Albertville subdivision regulations, as may be amended [1], shall be utilized for general development guidelines. (Ord. 1988-12, 12-19-1988; amd. 2005 Code)

Notes

1 1. See also subsection 1200.9A of this ordinance.

2 2. See section 9-1-2 and subsection 9-3-3A of the City Code.

1 1. See section 11-7-8-2 of the city code.

1 1. See title 11, chapter 7 of the city code.

4100.6: REGISTRATION:

A. It shall be the duty of the operator of the manufactured housing park to keep a record of all homeowners and occupants located within the park. The register shall contain the following information:

1. The name and address of each unit occupant.
2. The name and address of the owner of each unit.
3. The make, model and year of the unit.
4. The state, territory or country issuing such license.
5. The date of arrival and departure of each unit.
6. The number and type of motor vehicles of residents in the park.

B. The park operator shall keep the register available for inspection at all times by authorized city, state and county officials, public health officials, and other public offices whose duty necessitates acquisition of the information contained in the register. The register shall not be destroyed until after a period of three (3) years following the date of departure of the registrant from the park. (Ord. 1988-12, 12-19-1988)

4100.7: MAINTENANCE:
The operator and/or owner of any manufactured housing park, or a duly authorized attendant and/or caretaker shall be responsible at all times for keeping the park, its facilities and equipment in a clean, orderly, operable and sanitary condition. The attendant or caretaker shall be answerable, along with said operator/owner, for the violation of any provisions of these regulations to which said operator/owner is subject. (Ord. 1988-12, 12-19-1988)

4100.8: REVIEW PROCEDURES:
All informational elements, as required in section 4100.5 of this chapter, shall be submitted to the city in accordance with the normal time schedule outlined for zoning district amendments, whether or not the proposal requires a rezoning. Proposals for manufactured housing park expansions on properly zoned land shall be reviewed for compliance with the applicable standards and requirements contained in section 4100.5 of this chapter by all designated and official city review bodies. (Ord. 1988-12, 12-19-1988)

CHAPTER 4200

RESERVED

CHAPTER 4300

B-2 LIMITED BUSINESS DISTRICT

SECTION:

4300.1: Purpose

4300.2: Permitted Uses

4300.3: Accessory Uses

4300.4: Conditional Uses

4300.5: Prohibited Uses

4300.6: Lot Requirements And Setbacks

4300.7: Maximum Building Height

4300.8: Special Landscaping Requirements

4300.9: Architectural Standards

4300.1: PURPOSE:
The purpose of the B-2 limited business district is to provide for low intensity, retail or service outlets. The uses allowed in this district are to provide goods and services on a limited community market scale and located in areas which are well served by collector or arterial streets at the edge of residential districts. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-31, 11-3-2003)

4300.2: PERMITTED USES:
The following are permitted uses in a B-2 district, subject to additional requirements set forth in this ordinance:

Bakery goods and baking of goods for retail sales on the premises.

Essential services as regulated by chapter 2100 of this ordinance.

Government and public related utility buildings and structures.

Office business - clinical.

Office business - general.

Personal services.

Personal wireless service antennas located upon a public structure, including necessary equipment buildings, as regulated by chapter 2500 of this ordinance.

Public parking garage.

Retail business.

Service business - on site.

Temporary outdoor seasonal sales as regulated by section1000.22 of this ordinance.

Thrift stores/secondhand dealers having a building floor area of two thousand five hundred (2,500) square feet or less with all receipt of goods, processing of goods and disposal of the unusable goods occurring with the principal building or tenant bay. Outdoor receipt of secondhand goods is prohibited. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-31, 11-3-2003; Ord. 2021-10, 6-21-2021)

4300.3: ACCESSORY USES:
The following are permitted accessory uses in a B-2 district, subject to additional requirements set forth in this ordinance:

Accessory and secondary use antennas with a single support structure not to exceed seventy feet (70') including radio and television receiving antennas, single satellite dish TVROs two meters (2m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by chapter 2500 of this ordinance.

Adult uses - accessory, as regulated by chapter 2800 of this ordinance.

Commercial or business buildings and structures for a use accessory to the principal use, but such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.

Off street loading as regulated by chapter 1300 of this ordinance.

Off street parking as regulated by chapter 1200 of this ordinance, but not including semitrailer trucks.

Open or outdoor display of merchandise for sale or rent as an accessory use; provided, that:

A. Outdoor display of merchandise connected with the principal use is limited to ten percent (10%) of the gross floor area of the principal building or tenant bay, as applicable.

B. The use does not take up parking space as required for conformity to this ordinance.

C. The outdoor display area is hard surfaced with bitumen or concrete.

D. The applicant demonstrates that pedestrian circulation is not disrupted as a result of the outdoor display area by providing minimum clear passage zone for pedestrians at the perimeter of the outdoor display area which shall be at least four feet (4') without interference from parked motor vehicles, curbs, trash receptacles, or light standards. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-31, 11-3-2003)

4300.4: CONDITIONAL USES:
The following are conditional uses in a B-2 district, subject to additional requirements set forth in this ordinance: (Requires a conditional use permit as regulated by chapter 400 of this ordinance.)

Breweries with taprooms/brewpubs. Breweries are subject to the licensing provisions of title 4, chapter 1 of the city code, and the performance standards for such uses provided in chapter 2900 of this ordinance.

Buildings combining residential and nonresidential uses allowed in this district; provided, that:

A. Residential and nonresidential uses shall not be contained on the same floor.

B. The residential and nonresidential uses shall not conflict in any manner.

Commercial and public radio and television transmitting antennas and public utility microwave antennas, as regulated by chapter 2500 of this ordinance.

Commercial, private and public satellite dish transmitting or receiving antennas in excess of two meters (2m) or six feet seven inches (6'7") in diameter, as regulated by chapter 2500 of this ordinance.

Daycare facilities, as regulated by chapter 1700 of this ordinance.

Outdoor dining facilities; provided that:

A. The applicant shall be required to submit a site plan and other pertinent information demonstrating the number, location and type of all tables, refuse receptacles, and wait stations.

B. Access to the dining area shall be provided only via the principal building if the dining area is a full service restaurant or tavern, including table waiting service. All exit gates shall be marked "Exit Only" and shall meet all building code requirements.

C. The size of the dining area is restricted to twenty percent (20%) of the gross area of the current building, and shall maintain the lot requirements of the district.

D. The dining area is screened from view from adjacent residential uses.

E. All lighting shall be hooded at ninety degrees (90°) and directed away from adjacent properties. No luminaries shall extend beyond the ninety degree (90°) cutoff.

F. No outdoor dining shall be allowed on the public sidewalk.

G. The dining area is surfaced with concrete bituminous or decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.

H. A minimum width of thirty six inches (36") shall be provided within aisles of the outdoor dining area.

I. Off street parking shall be adequate for both indoor and outdoor seating areas.

J. Refuse containers are provided for self-service outdoor dining areas. Such containers shall be placed in a manner which does not disrupt pedestrian circulation, and must be designed to prevent spillage and blowing litter.

K. Property owners shall pick up litter within one hundred feet (100') of the patio area.

L. Live outdoor music performance shall meet the requirements of section5-5-3 of the city code.

M. Electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices may be allowed in the outdoor dining area, provided the lot on which the outdoor dining area is located doesn’t abut a residential use or zoning district. The playing of outdoor music shall not become a nuisance as defined by Title 5, Chapter 1 of the Albertville City Code.

N. No outdoor bar, cooking facility, food preparation or holding area shall be established.

O. The city council may limit the hours of operation.

Personal wireless service towers and antennas not located on a public structure, as regulated by chapter 2500 of this ordinance.

Restaurants without drive-through facilities; provided, that:

A. The site abuts a collector or minor arterial street or is included within an approved shopping center.

B. A buffer yard of twenty feet (20') in width shall be provided at the boundaries abutting an R district in accordance with section 1000.7 of this ordinance.

C. The operation shall be responsible for litter control on the site, which is to occur on a daily basis. Trash receptacles shall be screened.

D. Outdoor dining facilities as regulated by this section.

E. The site is in compliance with all relevant provisions of this ordinance.

Veterinary clinics with no overnight care, subject to the following conditions:

A. Related ancillary services including training, grooming and food and accessory sales may be conducted or provided at the facility.

B. Any outdoor exercise area must be fenced, must have a three foot (3') vegetative buffer, must be cleaned regularly, and no animal waste is allowed to enter any stormwater pond or storm sewer.

C. The facility must have a ventilation system that prohibits the transmission of odors or organisms between tenant bays. The ventilation system must be capable of completely exchanging internal air at a rate of 1.00 cfm/square foot of floor space per area dedicated for the keeping of animals exclusive of offices pursuant to the Minnesota state building code, or as approved by the building official and as may be amended. These requirements can be met by the submission of an air exchange analysis, acceptable to the city from a Minnesota licensed contractor or engineer confirming compliance with said standards, otherwise, the facility ventilation system must be completely separate and independent of other tenant space within the building.

D. A sufficiently sized room/cage separate from the facility areas shall be provided to adequately separate sick or injured animals from healthy animals and shall be designated in the building floor plan submitted with the application.

E. Wall finish materials below forty eight inches (48") in height in all treatment rooms and kennel areas shall be impervious, washable materials like sealed masonry, ceramic tile, glassboard, or marlite. Floor finish shall be sealed concrete or other approved impervious surface. Liquidtight curbing, at least six inches (6") high, shall be installed along shared walls for sanitary confinement and water wash down cleaning.

F. Animal wastes shall be immediately cleaned up with solid wastes being enclosed in a container of sufficient construction to eliminate odors and organisms. All animal waste must be properly disposed of daily.

G. Veterinary clinics found within multi-tenant buildings must provide soundproofing to insulate the noise from other business occupants.

Wind energy conversion systems, as regulated by chapter 2400 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-31, 11-3-2003; Ord. 2007-10, 7-2-2007; Ord. 2007-12, 10-1-2007; Ord. 2008-003, 1-22-2008; Ord. 2014-08, 10-20-2014; Ord. 2022-04, 3-7-2022)

4300.5: PROHIBITED USES:
Notwithstanding any other regulations within the city code, the following are prohibited uses in a B-2 district:

Adult use - principal.

Commercial animal kennels.

Motor fuel sales.

Pawnshops.

Tattoo parlors/body piercing studios.

Thrift stores/secondhand dealers having a building floor area in excess of two thousand five hundred (2,500) square feet. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-31, 11-3-2003; Ord. 2021-10, 6-21-2021)

4300.6: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in a B-2 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Ten thousand (10,000) square feet.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front yard: Not less than thirty five feet (35').
2. Side yard: Not less than ten feet (10') on any one side, not less than twenty feet (20') on the side yard abutting the major street.
3. Rear yard: Twenty feet (20').

D. Maximum site coverage: Hard surface, including buildings, eighty percent (80%). (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-31, 11-3-2003)

4300.7: MAXIMUM BUILDING HEIGHT:
A. Principal building/structure: Thirty five feet (35').

B. Accessory building/structure: As regulated by section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-31, 11-3-2003)

4300.8: SPECIAL LANDSCAPING REQUIREMENTS:
All properties in the B-2 district shall meet the following landscaping requirements, in addition to the requirements of section 1000.7 of this ordinance:

A. Landscape Plan: A detailed landscape plan must be submitted for approval by the city. The plan for landscaping shall include ground cover, bushes, shrubbery, trees, sculpture, decorative walks, or other similar design features or materials in a quantity having a minimum value in conformance with the following table:

Project Value (Including Building Construction, Site Preparation, And Site Improvements)		Minimum Landscape Value
Below $1,000,000.00		2 percent
$1,000,001.00 - $2,000,000.00		$20,000.00, plus 1 percent of project value in excess of $1,000,000.00
$2,000,001.00 - $3,000,000.00		$30,000.00, plus 0.75 percent of project value in excess of $2,000,000.00
$3,000,001.00 - $4,000,000.00		$37,500.00, plus 0.25 percent of project value in excess of $3,000,000.00
Over $4,000,000.00		1 percent

B. Sprinkler System: In order to provide for adequate maintenance of landscaped areas, an underground sprinkler system shall be provided for new development, except for additions to existing structures that do not at least equal the floor area of the existing structure. A sprinkler system shall be provided for all landscaped areas except areas to be preserved in a natural state.

C. Interior Parking Lot Landscaping:

1. All parking lots shall be designed to incorporate unpaved landscaped islands as required by the city.

2. All landscape islands shall be provided with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch or shrubbery.

3. Within off street parking facilities for commercial uses of fifty (50) or more stalls, irrigated landscape islands or peninsulas or rain gardens shall be provided at a rate of one hundred eighty (180) square feet per twenty five (25) surface stalls or fraction thereof. Such islands or peninsulas shall be contained within raised concrete curbed beds consistent with other applicable parking lot construction requirements of this ordinance. It is not the intent of this subsection to relieve a project of the installation of islands or peninsulas that are necessary to promote the safe and efficient flow of traffic regardless of parking lot size. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-31, 11-3-2003)

4300.9: ARCHITECTURAL STANDARDS:
All building exterior wall finishes shall be constructed of materials containing only brick, dimension stone, glass, stucco and its replicas, wood, rock faced block, or precast concrete panels. This section shall not apply to expansions of buildings existing on the effective date hereof when a compatible and cohesive design is achieved by continuing materials of a principal building to the expansion while overall improvements consistent with the intent of this chapter are demonstrated. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-31, 11-3-2003)

CHAPTER 4350

B-2A SPECIAL BUSINESS DISTRICT

SECTION:

4350.1: Purpose

4350.2: Permitted Uses

4350.3: Accessory Uses

4350.4: Conditional Uses

4350.5: Prohibited Uses

4350.6: Lot Requirements And Setbacks

4350.7: Maximum Building Height

4350.8: Special Landscaping Requirements

4350.9: Architectural Standards

4350.1: PURPOSE:
The purpose of the B-2A special business district is to provide for high quality, limited retail and service commercial development that serves both local and regional needs. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-32, 11-3-2003)

4350.2: PERMITTED USES:
The following are permitted uses in a B-2A district, subject to additional requirements set forth in this ordinance and except as otherwise provided in section 4350.4 of this chapter:

Animal veterinary clinics (small animal) (with no overnight care), as regulated by chapter 2300 of this ordinance.

Bakery goods and baking of goods for retail sales on the premises.

Essential services as regulated by chapter 2100 of this ordinance.

Government and public related utility buildings and structures.

Hospitality business.

Office business - clinical.

Office business - general.

Personal services.

Personal wireless service antennas located upon a public structure, including necessary equipment buildings, as regulated by chapter 2500 of this ordinance.

Recreational businesses.

Restaurant.

Retail business.

Service business - off site.

Service business - on site.

Temporary outdoor seasonal sales as regulated by section1000.22 of this ordinance.

Thrift stores/secondhand dealers having a building floor area of two thousand five hundred (2,500) square feet or less with all receipt of goods, processing of goods and disposal of unusable goods occuring with the principal building or tenant bay. Outdoor receipt of secondhand goods is prohibited. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-32, 11-3-2003; Ord. 2007-05, 5-21-2007; Ord. 2021-10, 6-21-2021)

4350.3: ACCESSORY USES:
The following are permitted accessory uses in a B-2A district, subject to additional requirements set forth in this ordinance:

Accessory and secondary use antennas with a single support structure not to exceed seventy feet (70') including radio and television receiving antennas, single satellite dish TVROs two meters (2m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by chapter 2500 of this ordinance.

Adult uses - accessory, as regulated by chapter 2800 of this ordinance.

Commercial or business buildings and structures for a use accessory to the principal use, provided such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.

Off street loading as regulated by chapter 1300 of this ordinance.

Off street parking as regulated by chapter 1200 of this ordinance, but not including semitrailer trucks.

Open or outdoor display of merchandise for sale or rent as an accessory use; provided, that:

A. Outdoor display of merchandise connected with the principal use is limited to ten percent (10%) of the gross floor area of the principal building or tenant bay, as applicable.

B. The use does not take up parking space as required for conformity to this ordinance.

C. The outdoor display area is surfaced with bitumen.

D. The applicant demonstrates that pedestrian circulation is not disrupted as a result of the outdoor display area by providing the following:

1. Outdoor display area shall be segregated from through pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, or other methods.

2. Minimum clear passage zone for pedestrians at the perimeter of the outdoor display area shall be at least five feet (5') without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, streetlights, parking meters, or the like. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-32, 11-3-2003)

4350.4: CONDITIONAL USES:
The following are conditional uses in a B-2A district, subject to additional requirements set forth in this ordinance: (Requires a conditional use permit as regulated by chapter 400 of this ordinance.)

Automobile repair - minor; provided, that:

A. The site consists of a minimum lot area of twenty thousand (20,000) square feet and minimum lot width of one hundred fifty feet (150').

B. Landscaping and screening not less than five feet (5') in width shall be provided at the boundaries abutting an R district in compliance with section 1000.7 of this ordinance.

C. Parking or automobile storage space shall be screened from view of abutting R districts in compliance with section 1000.7 of this ordinance.

D. Provisions are made to control and reduce noise.

Breweries with taprooms/brewpubs. Breweries are subject to the licensing provisions of title 4, chapter 1 of the city code, and the performance standards for such uses provided in chapter 2900 of this ordinance.

Buildings combining residential and nonresidential uses allowed in this district; provided, that:

A. Residential and nonresidential uses shall not be contained on the same floor.

B. The residential and nonresidential uses shall not conflict in any manner.

Commercial and public radio and television transmitting antennas and public utility microwave antennas, as regulated by chapter 2500 of this ordinance.

Commercial, private and public satellite dish transmitting or receiving antennas in excess of two meters (2m) in diameter, as regulated by chapter 2500 of this ordinance.

Daycare facilities, as regulated by chapter 1700 of this ordinance.

Drive-through service lanes. A drive-through service lane accessory to any permitted or conditionally permitted business or use shall be allowed only if the following additional criteria are satisfied:

A. Not less than one hundred twenty feet (120') of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty feet (60') per lane.

B. The stacking lane and its access must be designed to control traffic in a manner to protect the buildings and will not interfere with on site traffic circulation or access to required parking spaces.

C. No part of the public street or boulevard may be used for stacking of automobiles.

D. The stacking lane, order board intercom, and window placement shall be designed and located in such a manner as to minimize glare to adjacent premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.

E. The drive-through lanes shall be screened from view of adjoining residential zoning districts and public street rights of way.

F. Hours of operation shall be limited as necessary to minimize the effect of nuisance factors such as traffic, noise, and glare.

G. A lighting and photometric plan will be required that illustrates that drive-through service lane lighting shall comply with section 1000.10 of this ordinance.

Outdoor dining facilities; provided, that:

A. The applicant shall be required to submit a site plan and other pertinent information demonstrating the number, location and type of all tables, refuse receptacles, and wait stations.

B. Access to the dining area shall be provided only via the principal building if the dining area is a full service restaurant or tavern, including table waiting service. All exit gates shall be marked "Exit Only" and shall meet all building code requirements.

C. The size of the dining area is restricted to twenty percent (20%) of the gross area of the current building, and shall maintain the lot requirements of the district.

D. The dining area is screened from view from adjacent residential uses.

E. All lighting shall be hooded at ninety degrees (90°) and directed away from adjacent properties. No luminaries shall extend beyond the ninety degree (90°) cutoff.

F. No outdoor dining shall be allowed on the public sidewalk.

G. The dining area is surfaced with concrete bituminous or decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.

H. A minimum width of thirty six inches (36") shall be provided within aisles of the outdoor dining area.

I. Off street parking shall be adequate for both indoor and outdoor seating areas.

J. Refuse containers are provided for self-service outdoor dining areas. Such containers shall be placed in a manner which does not disrupt pedestrian circulation, and must be designed to prevent spillage and blowing litter.

K. Property owners shall pick up litter within one hundred feet (100') of the patio area.

L. Live outdoor music performance shall meet the requirements of section 5-5-3 of the city code.

M. Electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices may be allowed in the outdoor dining area, provided the lot on which the outdoor dining area is located doesn't abut a residential use or zoning district. The playing of outdoor music shall not become a nuisance as defined by Title 5, Chapter 1 of the Albertville City Code.

N. No outdoor bar, cooking facility, food preparation or holding area shall be established.

O. The city council may limit the hours of operation.

Personal wireless service towers and antennas not located on a public structure, as regulated by chapter 2500 of this ordinance.

Wind energy conversion systems, as regulated by chapter 2400 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-32, 11-3-2003; 2005 Code; Ord. 2007-10, 7-2-2007; Ord. 2007-12, 10-1-2007; Ord. 2014-08, 10-20-2014; Ord. 2022-04, 3-7-2022)

4350.5: PROHIBITED USES:
Notwithstanding any other regulations within the city code, the following are prohibited uses in a B-2A district:

Adult use - principal.

Commercial animal kennels.

Motor fuel sales.

Pawnshops.

Tattoo parlors/body piercing studios.

Thrift stores/secondhand dealers having a building floor area in excess of two thousand five hundred (2,500) square feet. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-32, 11-3-2003; Ord. 2021-10, 6-21-2021)

4350.6: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in a B-2A district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: One acre.

B. Lot width: One hundred fifty feet (150').

C. Building setbacks:

1. Front yard: Minimum of thirty five feet (35').
2. Side yard: Ten feet (10'), except not less than thirty five feet (35') when abutting an R district or adjacent to a public street.
3. Rear yard: Twenty feet (20'), except not less than thirty five feet (35') when abutting an R district or adjacent to a public street.

D. Parking and driveway setbacks:

1. Front yards: Twenty feet (20').
2. Side yards: Five feet (5'), except not less than twenty feet (20') when abutting an R district.
3. Rear yards: Ten feet (10'), except not less than twenty feet (20') when abutting an R district.

E. Maximum site coverage: Hard surface, including buildings and structures, eighty percent (80%). (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-32, 11-3-2003)

4350.7: MAXIMUM BUILDING HEIGHT:

A. Principal building/structure: Thirty five feet (35').

B. Accessory building/structure: As regulated by section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-32, 11-3-2003)

4350.8: SPECIAL LANDSCAPING REQUIREMENTS:

All properties in the B-2A district shall meet the following landscaping requirements, in addition to the requirements of section 1000.7 of this ordinance:

A. Landscape Plan: A detailed landscape plan must be submitted for approval by the city. The plan for landscaping shall include ground cover, bushes, shrubbery, trees, sculpture, decorative walks, or other similar design features or materials in a quantity having a minimum value in conformance with the following table:

Project Value (Including Building Construction, Site Preparation, And Site Improvements)	Minimum Landscape Value (Plantings And Installation)
Below $1,000,000.00	2 percent
$1,000,001.00 - $2,000,000.00	$20,000.00, plus 1 percent of project value in excess of $1,000,000.00
$2,000,001.00 - $3,000,000.00	$30,000.00, plus 0.75 percent of project value in excess of $2,000,000.00
$3,000,001.00 - $4,000,000.00	$37,500.00, plus 0.25 percent of project value in excess of $3,000,000.00
Over $4,000,000.00	1 percent

B. Sprinkler System: In order to provide for adequate maintenance of landscaped areas, an underground sprinkler system shall be provided for new development, except for additions to existing structures that do not at least equal the floor area of the existing structure. A sprinkler system shall be provided for all landscaped areas except areas to be preserved in a natural state.

C. Interior Parking Lot Landscaping:

1. All parking lots shall be designed to incorporate unpaved, landscaped islands as required by the city.
2. All landscaped islands shall contain a minimum of one hundred eighty (180) square feet.
3. All landscaped islands shall be provided with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch or shrubbery.
4. Parking lot landscape trees shall be provided at the rate of one tree for each fifteen (15) parking spaces, or major fraction thereof.
5. Parking lot islands must have a raised concrete perimeter curb. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-32, 11-3-2003)

4350.9: ARCHITECTURAL STANDARDS:

All building exterior wall finishes must be constructed of materials containing only brick, dimension stone, glass, stucco and its replicas, wood, rock faced block or aggregate precast concrete panels. This section shall not apply to expansions of buildings existing on the effective date hereof when a compatible and cohesive design is achieved by continuing materials of a principal building to the expansion while overall improvements consistent with the intent of this section are demonstrated. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-32, 11-3-2003)

CHAPTER 4400

B-3 HIGHWAY COMMERCIAL DISTRICT

SECTION:

4400.1: Purpose

4400.2: Permitted Uses

4400.3: Accessory Uses

4400.4: Conditional Uses

4400.5: Prohibited Uses

4400.6: Lot Requirements And Setbacks

4400.7: Maximum Building Height

4400.8: Architectural Standards

4400.1: PURPOSE:

The purpose of the B-3 highway commercial district is to provide for the establishment of motor vehicle oriented or dependent high intensity commercial and service activities. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-33, 11-3-2003)

4400.2: PERMITTED USES:

The following are permitted uses in a B-3 district, subject to additional requirements set forth in this ordinance:

Adult uses - principal, as regulated by chapter 2800 of this ordinance.

Animal veterinary clinics with overnight care, as regulated by chapter 2300 of this ordinance.

Bakery goods and baking of goods for retail sales on the premises.

Essential services, as regulated by chapter 2100 of this ordinance.

Government and public utility buildings and structures.

Hospitality business.

Office business - clerical.

Office business - general.

Personal services.

Personal wireless service antennas located upon a public structure, including necessary equipment buildings, as regulated by chapter 2500 of this ordinance.

Public parking garage.

Recreational business.

Restaurant.

Retail business.

Service business - off site.

Service business - on site.

Temporary outdoor seasonal sales, as regulated by section 1000.22 of this ordinance.

Thrift stores/secondhand dealers having a building floor area of two thousand five hundred (2,500) square feet or less with all receipt of goods, processing of goods and disposal of the unusable goods occurring with the principal building or tenant bay. Outdoor receipt of secondhand goods is prohibited. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-33, 11-3-2003; Ord. 2007-05, 5-21-2007; Ord. 2021-10, 6-21-2021)

4400.3: ACCESSORY USES:
The following are permitted accessory uses in a B-3 district, subject to additional requirements set forth in this ordinance:

Accessory and secondary use antennas with a single support structure not to exceed seventy feet (70') including radio and television receiving antennas, single satellite dish TVROs two meters (2m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by chapter 2500 of this ordinance.

Adult uses - accessory, as regulated by chapter 2800 of this ordinance.

Commercial or business buildings and structures for a use accessory to the principal use, provided such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.

Off street loading, as regulated by chapter 1300 of this ordinance.

Off street parking, as regulated by chapter 1200 of this ordinance, but not including semitrailer trucks.

Open or outdoor display of merchandise for sale or rent as an accessory use; provided, that:

A. Outdoor display of merchandise connected with the principal use is limited to twenty percent (20%) of the gross floor area of the principal building or tenant bay, as applicable.

B. The use does not take up parking space as required for conformity to this ordinance.

C. The outdoor display area is surfaced with bitumen.

D. The applicant demonstrates that pedestrian circulation is not disrupted as a result of the outdoor display area by providing the following:

1. Outdoor display area shall be segregated from through pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, or other methods.

2. Minimum clear passage zone for pedestrians at the perimeter of the outdoor display area shall be at least five feet (5') without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, streetlights, parking meters, or the like. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-33, 11-3-2003)

4400.4: CONDITIONAL USES:
The following are conditional uses in a B-3 district, subject to additional requirements set forth in this ordinance: (Requires a conditional use permit as regulated by chapter 400 of this ordinance.)

Automobile repair - major; provided, that:

A. The site consists of a minimum lot area of twenty thousand (20,000) square feet and minimum lot width of one hundred fifty feet (150').

B. Landscaping and screening not less than ten feet (10') in width shall be provided at the boundaries abutting an R district in compliance with section 1000.7 of this ordinance.

C. Parking or automobile storage space shall be screened from view of abutting rights of way or properties in compliance with section 1000.7 of this ordinance.

D. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by this chapter as well as standards for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements that are imposed for other uses of the property.

E. Provisions are made to control and reduce noise consistent with Minnesota pollution control standards.

F. All exterior building materials and construction, including those of accessory structures, must be in conformance with section 4400.8 of this chapter.

G. All painting must be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust or other particulate matter so that the use shall be in compliance with the Minnesota pollution control standards, Minnesota

regulation APC 1-15, as amended.

H. The emission of odor by a use shall be in compliance with and regulated by the Minnesota pollution control standards, Minnesota regulation APC, as amended.

I. All flammable materials, including liquids and rags, shall conform with the applicable provisions of the city fire code[1].

Automobile repair - minor; provided, that:

A. The site consists of a minimum lot area of twenty thousand (20,000) square feet and minimum lot width of one hundred fifty feet (150').

B. Landscaping, screening, and buffer yards not less than twenty feet (20') in width shall be provided at the boundaries abutting an R district in compliance with section 1000.7 of this ordinance.

C. Parking or automobile storage space shall be screened from view of abutting rights of way or properties in compliance with section 1000.7 of this ordinance.

D. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by this chapter for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements that are imposed for other uses of the property.

E. Provisions are made to control and reduce noise consistent with Minnesota pollution control standards.

F. All exterior building materials and construction, including accessory structures, must be in conformance with section 4400.8 of this chapter.

Breweries with taprooms/brewpubs. Breweries are subject to the licensing provisions of title 4, chapter 1 of the city code, and the performance standards for such uses provided in chapter 2900 of this ordinance.

Car washes (drive-through, mechanical, and self-service); provided, that:

A. The car wash building shall meet the architectural standards of section 4400.8 of this chapter.

B. Car wash stacking space shall be constructed to accommodate the number of vehicles that may be washed in a thirty (30) minute period.

C. Provisions shall be made to control and reduce noise.

Commercial and public radio and television transmitting antennas and public utility microwave antennas, as regulated by chapter 2500 of this ordinance.

Commercial, private and public satellite dish transmitting or receiving antennas in excess of two meters (2m) or six feet seven inches (6'7") in diameter, as regulated by chapter 2500 of this ordinance.

Daycare facilities, as regulated by chapter 1700 of this ordinance.

Drive-through service lanes. A drive-through service lane accessory to any permitted or conditionally permitted business or use shall be allowed only if the following additional criteria are satisfied:

A. Not less than one hundred twenty feet (120') of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty feet (60') per lane.

B. The stacking lane and its access must be designed to control traffic in a manner to protect the buildings and will not interfere with on site traffic circulation or access to required parking spaces.

C. No part of the public street or boulevard may be used for stacking of automobiles.

D. The stacking lane, order board intercom, and window placement shall be designed and located in such a manner as to minimize glare to adjacent premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.

E. The drive-through lanes shall be screened from view of adjoining residential zoning districts and public street rights of way.

F. Hours of operation shall be limited as necessary to minimize the effect of nuisance factors such as traffic, noise, and glare.

G. A lighting and photometric plan will be required that illustrates that drive-through service lane lighting shall comply with section 1000.10 of this ordinance.

Motor fuel station; provided, that:

A. The site consists of a minimum lot area of twenty thousand (20,000) square feet and minimum lot width of one hundred fifty feet (150').

B. Adequate space shall be provided to access fuel pumps and allow maneuverability around fuel pumps.

C. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations that do not conflict with circulation or access or other activities.

D. Landscaping and screening not less than ten feet (10') in width shall be provided at the boundaries abutting an R district in compliance with section 1000.7 of this ordinance.

E. Parking or gas pump queuing areas shall be screened from view of abutting R districts in compliance with section 1000.7 of this ordinance.

F. Provisions are made to control and reduce noise consistent with Minnesota pollution control standards.

G. The operation shall be responsible for daily litter control on the site. Trash receptacles shall be provided at a convenient location on site to facilitate litter control.

H. Wherever fuel pumps are to be installed, pump islands shall be installed.

1. Pump islands shall be elevated six inches (6") above the traveled surface of the site.

2. All pump islands shall be at least thirty feet (30') back from any property line.

3. The outer edge of any canopy shall be set back at least twenty feet (20') from any property lines.

4. The canopy shall not exceed eighteen feet (18') in height and must provide a minimum of fourteen feet (14') of clearance to accommodate a semitrailer truck passing underneath.

5. The canopy fascia shall not exceed three feet (3') in vertical height.

6. Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the bottom face of the canopy.

Motor vehicle sales, leasing/rental, service and repair; provided, that:

A. The minimum lot area shall be four (4) acres. The minimum lot width shall be one hundred fifty feet (150').

B. The outdoor sales lot must have a principal building. The principal building and any accessory buildings or structures shall meet the architectural standards of section 4400.8 of this chapter.

C. The outdoor sales lot shall be set back ten feet (10') from any lot line. The sales lot shall be curbed and landscaped to prevent vehicle encroachment into any setback.

D. The outdoor storage of waste material, debris, refuse, damaged vehicles, and junk vehicle parts and the like shall be contained within a specifically defined area of the site no greater than ten percent (10%) of the total site area. Said area must be located in the rear yard and encompassed by a minimum six foot (6') high screened security fence. Said fence must be accompanied by landscape plantings along all sides which face adjoining properties. Areas intended for the storage of damaged vehicles that may result in the loss of motor vehicle fluids (i.e., gasoline, oil, antifreeze, transmission fluid, battery acid, etc.) shall be designed to prevent the infiltration or drainage of these fluids into area soils or stormwater runoff and prevent the deterioration of parking and storage area surfaces.

E. The outdoor repair of motor vehicles or motor vehicle parts anywhere on the property is prohibited.

F. In addition to the required parking for the principal building or activities, one off street parking stall for every two thousand (2,000) square feet of outdoor motor vehicle sales area shall be required. Areas used for outdoor sales shall be separated from the required off street parking stalls. The required off street parking shall not be used for outdoor sales or storage and shall be specifically marked for customer or employee use.

G. All parking shall comply with the performance standards of chapter 1200 of this ordinance.

H. The entire site shall have a drainage system which shall be subject to city engineer approval.

I. All lighting shall be hooded - ninety degree (90°) cutoff lighting that directs lighting downward away from the public rights of way and so that no light or glare shines on adjacent property, buildings or structures.

J. An enclosed trash handling facility shall be provided which conforms with the following provisions:

1. The exterior wall treatment shall have a masonry construction and be similar and/or complement the principal building.

2. The enclosed trash receptacle shall be located in the rear yard.

3. The trash receptacle must be in an accessible location for trash pick up vehicles.

4. The trash enclosure must be fully screened and landscaped from view of adjacent properties and the public right of way.

Outdoor dining facilities; provided, that:

A. The applicant shall be required to submit a site plan and other pertinent information demonstrating the number, location and type of all tables, refuse receptacles, and wait stations.

B. Access to the dining area shall be provided only via the principal building if the dining area is a full service restaurant or tavern, including table waiting service. All exit gates shall be marked "Exit Only" and shall meet all building code requirements.

C. The size of the dining area is restricted to twenty percent (20%) of the gross area of the current building, and shall maintain the lot requirements of the district.

D. The dining area is screened from view from adjacent residential uses.

E. All lighting shall be hooded at ninety degrees (90°) and directed away from adjacent properties. No luminaries shall extend beyond the ninety degree (90°) cutoff.

F. No outdoor dining shall be allowed on the public sidewalk.

G. The dining area is surfaced with concrete bituminous or decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.

H. A minimum width of thirty six inches (36") shall be provided within aisles of the outdoor dining area.

I. Off street parking shall be adequate for both indoor and outdoor seating areas.

J. Refuse containers are provided for self-service outdoor dining areas. Such containers shall be placed in a manner which does not disrupt pedestrian circulation, and must be designed to prevent spillage and blowing litter.

K. Property owners shall pick up litter within one hundred feet (100') of the patio area.

L. Live outdoor music performance shall meet the requirements of section5-5-3 of the city code.

M. Electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices may be allowed in the outdoor dining area, provided the lot on which the outdoor dining area is located doesn’t abut a residential use or zoning district. The playing of outdoor music shall not become a nuisance as defined by Title 5, Chapter 1 of the Albertville City Code.

N. No outdoor bar, cooking facility, food preparation or holding area shall be established.

O. The city council may limit the hours of operation.

Outside storage, as regulated by section 1000.15 of this ordinance.

Overhead transmission and substation lines in excess of thirty three (33) kilovolts, as regulated by chapter 2100 of this ordinance.

Personal wireless service towers and antennas not located on a public structure, as regulated by chapter 2500 of this ordinance.

Transmission pipelines (i.e., pipelines not required for local distributing network) as regulated by chapter 2100 of this ordinance.

Wind energy conversion systems, as regulated by chapter 2400 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-33, 11-3-2003; 2005 Code; Ord. 2007-10, 7-2-2007; Ord. 2007-12, 10-1-2007; Ord. 2014-08, 10-20-2014; Ord. 2022-04, 3-7-2022)

Notes

1 1. See title 10, chapter 3 of the city code.

4400.5: PROHIBITED USES:
Notwithstanding any other regulations within the city code, the following are prohibited uses in a B-3 district:

Commercial animal kennels.

Pawnshops.

Thrift stores/secondhand dealers having a building floor area in excess of two thousand five hundred (2,500) square feet. (Ord. 2008-006, 8-4-2008; amd. Ord. 2021-10, 6-21-2021)

4400.6: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in a B-3 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: None.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front yard: Thirty five feet (35').
2. Side yard: Twenty feet (20'), except not less than thirty five feet (35') when abutting an R district.
3. Rear yard: Twenty feet (20'), except not less than thirty five feet (35') when abutting an R district.

D. Maximum site coverage: Hard surface, including buildings, eighty percent (80%). (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-33, 11-3-2003)

4400.7: MAXIMUM BUILDING HEIGHT:
A. Principal building/structure: Thirty five feet (35').

B. Accessory building/structure: As regulated by section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-33, 11-3-2003)

4400.8: ARCHITECTURAL STANDARDS:
In the B-3 zoning district, fifty percent (50%) of all exterior wall finishes must be constructed of materials containing only brick, dimension stone, glass, stucco and its replicas, woods, rock faced block, or aggregate precast concrete panels. In the B-3 zoning district, any exposed metal or fiberglass finish on all buildings shall be limited to no more than fifty percent (50%) of the total solid surface of all walls. For building walls which face public rights of way or abut residential uses, an exposed metal or fiberglass finish shall not exceed fifty percent (50%) of the wall area. Any metal finish utilized in the building shall be a minimum of 26-gauge steel. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-33, 11-3-2003)

CHAPTER 4500

B-4 GENERAL BUSINESS DISTRICT

SECTION:

4500.1: Purpose

4500.2: Permitted Uses

4500.3: Accessory Uses

4500.4: Conditional Uses

4500.5: Prohibited Uses

4500.6: Lot Requirements And Setbacks

4500.7: Maximum Building Height

4500.8: Architectural Standards

4500.1: PURPOSE:
The purpose of the B-4 district is to provide for the regulation of high intensity commercial uses located within the historic downtown of the city and other intense commercial areas of the city. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-34, 11-3-2003)

4500.2: PERMITTED USES:
The following are permitted uses in a B-4 district, subject to additional requirements set forth in this ordinance:

Adult uses - principal, as regulated by chapter 2800 of this ordinance.

Animal veterinary clinics (with no overnight care), as regulated by chapter 2300 of this ordinance.

Bakery goods and baking of goods for retail sales on the premises.

Essential services, as regulated by chapter 2100 of this ordinance.

Government and public related utility buildings and structures.

Hospitality business.

Office business - clinic.

Office business - general.

Personal wireless service antennas located upon a public structure, including necessary equipment buildings, as regulated by chapter 2500 of this ordinance.

Personnel service.

Public parking garages.

Recreational business.

Restaurant - general.

Retail business.

Service business - off site.

Service business - on site.

Tattoo parlors/body piercing.

Temporary outdoor seasonal sales as regulated by section 1000.22 of this ordinance.

Thrift stores/secondhand dealers having a building floor area of two thousand five hundred (2,500) square feet or less with all receipt of goods, processing of goods and disposal of the unusable goods occurring with the principal building or tenant bay. Outdoor receipt of secondhand goods is prohibited. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-34, 11-3-2003; Ord. 2007-05, 5-21-2007; Ord. 2021-10, 6-21-2021)

4500.3: ACCESSORY USES:
The following are permitted accessory uses in a B-4 district, subject to additional requirements set forth in this ordinance:

Accessory and secondary use antennas with a single support structure not to exceed seventy feet (70') including radio and television receiving antennas, single satellite dish TVROs two meters (2m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by chapter 2500 of this ordinance.

Adult uses - accessory, as regulated by chapter 2800 of this ordinance.

Commercial or business buildings and structures for a use accessory to the principal use, provided such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.

Off street loading, as regulated by chapter 1300 of this ordinance.

Off street parking, as regulated by chapter 1200 of this ordinance, but not including semitrailer trucks.

Open or outdoor display of merchandise for sale or rent as an accessory use; provided, that:

A. Outdoor display of merchandise connected with the principal use is limited to ten percent (10%) of the gross floor area of the principal building or tenant bay, as applicable.

B. The use does not take up parking space as required for conformity to this ordinance.

C. The outdoor display area is surfaced with bitumen.

D. The applicant demonstrates that pedestrian circulation is not disrupted as a result of the outdoor display area by providing the following:

1. Outdoor display area shall be segregated from through pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, or other methods.

2. Minimum clear passage zone for pedestrians at the perimeter of the outdoor display area shall be at least five feet (5') without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, streetlights, parking meters, or the like. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-34, 11-3-2003)

4500.4: CONDITIONAL USES:
The following are conditional uses in a B-4 district, subject to additional requirements set forth in this ordinance: (Requires a conditional use permit as regulated by chapter 400 of this ordinance.)

Automobile repair - major; provided, that:

A. The site consists of a minimum lot area of twenty thousand (20,000) square feet and minimum lot width of one hundred fifty feet (150').

B. Landscaping, screening, and buffer yards not less than twenty feet (20') in width shall be provided at the boundaries abutting an R district in compliance with section 1000.7 of this ordinance.

C. Parking or automobile storage space shall be screened from view of abutting rights of way or properties in compliance with section 1000.7 of this ordinance.

D. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by this chapter for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements that are imposed for other uses of the property.

E. Provisions are made to control and reduce noise consistent with Minnesota pollution control standards.

F. All exterior building materials and construction including those of accessory structures must be in conformance with section 4500.8 of this chapter.

G. All painting must be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust or other particulate matter so that the use shall be in compliance with the Minnesota pollution control standards, Minnesota regulation APC 1-15, as amended.

H. The emission of odor by a use shall be in compliance with and regulated by the Minnesota pollution control standards, Minnesota regulation APC, as amended.

I. All flammable materials, including liquids and rags, shall conform with the applicable provisions of the city fire code[1].

Automobile repair - minor; provided, that:

A. The site consists of a minimum lot area of twenty thousand (20,000) square feet and minimum lot width of one hundred fifty feet (150').

B. Landscaping, screening, and buffer yards not less than twenty feet (20') in width shall be provided at the boundaries abutting an R district in compliance with section 1000.7 of this ordinance.

C. Parking or automobile storage space shall be screened from view of abutting rights of way or properties in compliance with section 1000.7 of this ordinance.

D. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by this chapter for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements that are imposed for other uses of the property.

E. Provisions are made to control and reduce noise consistent with Minnesota pollution control standards.

F. All exterior building materials and construction, including accessory structures, must be in conformance with section 4500.8 of this chapter.

Breweries with taprooms/brewpubs. Breweries are subject to the licensing provisions of title 4, chapter 1 of the city code, and the performance standards for such uses provided in chapter 2900 of this ordinance.

Buildings combining residential and nonresidential uses allowed in this district; provided, that:

A. Residential and nonresidential uses shall not be contained on the same floor.

B. The residential and nonresidential uses shall not conflict in any manner.

Car washes (drive-through, mechanical, and self-service); provided, that:

A. The car wash building shall meet the architectural standards of section 4500.8 of this chapter.

B. Car wash stacking space shall be constructed to accommodate the number of vehicles that may be washed in a thirty (30) minute period.

C. Provisions shall be made to control and reduce noise.

Commercial and public radio and television transmitting antennas and public utility microwave antennas, as regulated by chapter 2500 of this ordinance.

Commercial, private and public satellite dish transmitting or receiving antennas in excess of two meters (2m) or six feet seven inches (6'7") in diameter, as regulated by chapter 2500 of this ordinance.

Daycare facilities, as regulated by chapter 1700 of this ordinance.

Drive-through service lanes. A drive-through service lane accessory to any permitted or conditionally permitted business or use shall be allowed only if the following additional criteria are satisfied:

A. Not less than one hundred twenty feet (120') of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty feet (60') per lane.

B. The stacking lane and its access must be designed to control traffic in a manner to protect the buildings and will not interfere with on site traffic circulation or access to required parking spaces.

C. No part of the public street or boulevard may be used for stacking of automobiles.

D. The stacking lane, order board intercom, and window placement shall be designed and located in such a manner as to minimize glare to adjacent premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.

E. The drive-through lanes shall be screened from view of adjoining residential zoning districts and public street rights of way.

F. Hours of operation shall be limited as necessary to minimize the effect of nuisance factors such as traffic, noise, and glare.

G. A lighting and photometric plan will be required that illustrates that drive-through service lane lighting shall comply with section 1000.10 of this ordinance.

Motor fuel station; provided, that:

A. The site consists of a minimum lot area of twenty thousand (20,000) square feet and minimum lot width of one hundred fifty feet (150').

B. Adequate space shall be provided to access fuel pumps and allow maneuverability around fuel pumps.

C. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations that do not conflict with circulation, access or other activities.

D. Landscaping, screening, and buffer yards not less than ten feet (10') in width shall be provided at the boundaries abutting an R district in compliance with section 1000.7 of this ordinance.

E. Parking or gas pump queuing area shall be screened from view of abutting R districts in compliance with section 1000.7 of this ordinance.

F. Provisions are made to control and reduce noise consistent with Minnesota pollution control standards.

G. The operation shall be responsible for daily litter control on the site. Trash receptacles shall be provided at a convenient location on site to facilitate litter control.

H. Wherever fuel pumps are to be installed, pump islands shall be installed.

1. Pump islands shall be elevated six inches (6") above the traveled surface of the site.

2. All pump islands shall be at least thirty feet (30') back from any property line.

3. The outer edge of any canopy shall be set back at least twenty feet (20') from any property lines.

4. The canopy shall not exceed eighteen feet (18') in height and must provide a minimum of fourteen feet (14') of clearance to accommodate a semitrailer truck passing underneath.

5. The canopy fascia shall not exceed three feet (3') in vertical height.

6. Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the bottom face of the canopy.

Outdoor dining facilities; provided, that:

A. The applicant shall be required to submit a site plan and other pertinent information demonstrating the number, location and type of all tables, refuse receptacles, and wait stations.

B. Access to the dining area shall be provided only via the principal building if the dining area is a full service restaurant or tavern, including table waiting service. All exit gates shall be marked "Exit Only" and shall meet all building code requirements.

C. The size of the dining area is restricted to seventy five percent (75%) of the gross area of the current building, and shall maintain the lot requirements of the district.

D. The dining area is screened from view from adjacent residential uses.

E. All lighting shall be hooded at ninety degrees (90°) and directed away from adjacent properties. No luminaries shall extend beyond the ninety degree (90°) cutoff.

F. No outdoor dining shall be allowed on the public sidewalk.

G. The dining area is surfaced with concrete bituminous or decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.

H. A minimum width of thirty six inches (36") shall be provided within aisles of the outdoor dining area.

I. Off street parking shall be adequate for both indoor and outdoor seating areas.

J. Refuse containers are provided for self-service outdoor dining areas. Such containers shall be placed in a manner which does not disrupt pedestrian circulation, and must be designed to prevent spillage and blowing litter.

K. Property owners shall pick up litter within one hundred feet (100') of the patio area.

L. Live outdoor music performance shall meet the requirements of section5-5-3 of the city code.

M. Electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices may be allowed in the outdoor dining area, provided the lot on which the outdoor dining area is located doesn't abut a residential use or zoning district. The playing of outdoor music shall not become a nuisance as defined by Title 5, Chapter 1 of the Albertville City Code.

N. No outdoor bar, cooking facility, food preparation or holding area shall be established.

O. The city council may limit the hours of operation.

Overhead transmission and substation lines in excess of thirty three (33) kilovolts, as regulated by chapter 2100 of this ordinance.

Personal wireless service towers and antennas not located on a public structure, as regulated by chapter 2500 of this ordinance.

Transmission pipelines (i.e., pipelines not required for local distributing network), as regulated by chapter 2100 of this ordinance.

Wind energy conversion systems, as regulated by chapter 2400 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-34, 11-3-2003; 2005 Code; Ord. 2007-10, 7-2-2007; Ord. 2007-12, 10-1-2007; Ord. 2014-08, 10-20-2014; Ord. 2022-04, 3-7-2022)

Notes

1 1. See title 10, chapter 3 of the city code.

4500.5: PROHIBITED USES:
Notwithstanding any other regulations within the city code, the following are prohibited uses in a B-4 district:

Commercial animal kennels.

Pawnshops.

Thrift stores/secondhand dealers having a building floor area in excess of two thousand five hundred (2,500) square feet. (Ord. 2008-006, 8-4-2008; amd. Ord. 2021-10, 6-21-2021)

4500.6: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in a B-4 district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: None.

B. Lot width: None.

C. Setbacks:

1. Front yard: None.

2. Side yard: Twenty feet (20') abutting an R district.

3. Rear yard: Twenty feet (20').

D. Maximum lot coverage: Hard surface, including buildings, eighty five percent (85%) of the lot area. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-34, 11-3-2003)

4500.7: MAXIMUM BUILDING HEIGHT:
A. Principal building/structure: Thirty five feet (35').

B. Accessory building/structure: As regulated by section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-34, 11-3-2003)

4500.8: ARCHITECTURAL STANDARDS:
In the B-4 zoning district, fifty percent (50%) of all exterior wall finishes must be constructed of materials containing only brick, dimension stone,

glass, stucco and its replicas, woods, rock faced block, or aggregate precast concrete panels. In the B-4 zoning district, any exposed metal or fiberglass finish on all buildings shall be limited to no more than fifty percent (50%) of the total solid surface of all walls. For building walls which face public rights of way or abut residential uses, an exposed metal or fiberglass finish shall not exceed fifty percent (50%) of the wall area. Any metal finish utilized in the building shall be a minimum of 26-gauge steel. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-34, 11-3-2003)

CHAPTER 4501

B-W BUSINESS-WAREHOUSING DISTRICT

SECTION:

4501.1: Purpose

4501.2: Permitted Uses

4501.3: Accessory Uses

4501.4: Conditional Uses

4501.5: Prohibited Uses

4501.6: Lot Requirements And Setbacks

4501.7: Maximum Building Height

4501.8: Architectural Standards

4501.1: PURPOSE:
The purpose of the B-W District is to provide for the establishment of wholesale and retail trade of large volumes or bulk commercial items, showrooms, storage and warehousing. The overall character of the B-W District is intended to be transitional in nature, thus industrial uses allowed within this district shall be limited to those that can compatibly exist adjacent to commercial and lower density activities. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-35, 11-3-2003)

4501.2: PERMITTED USES:
The following are permitted uses in the B-W District, subject to additional requirements set forth in this ordinance:

Adult uses - principal, as regulated by chapter 2800 of this ordinance.

Animal veterinary clinics with overnight care, as regulated by chapter 2300 of this ordinance.

Bakery goods and baking of goods for retail sales on the premises.

Building material sales.

Cartage and express facilities.

Essential services, as regulated by chapter 2100 of this ordinance.

Government and public utility buildings and structures.

Hospitality business.

Landscape/nursery.

Office business - clerical.

Office business - general.

Personal wireless service antennas located upon a public structure, including necessary equipment buildings, as regulated by chapter 2500 of this ordinance.

Public parking garage.

Radio and television stations.

Recreational business.

Research laboratories.

Retail and wholesale showrooms.

Thrift stores/secondhand dealers having a building floor area of two thousand five hundred (2,500) square feet or less with all receipt of goods, processing of goods and disposal of the unusable goods occurring with the principal building or tenant bay. Outdoor receipt of secondhand goods is prohibited.

Service business - off site.

Service business - on site.

Warehousing.

Wholesale business. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-35, 11-3-2003; Ord. 2007-05, 5-21-2007; Ord. 2018-08, 3-5-2018; Ord. 2021-10, 6-21-2021)

4501.3: ACCESSORY USES:
The following are permitted accessory uses in a B-W District, subject to additional requirements set forth in this ordinance:

Accessory and secondary use antennas with a single support structure not to exceed seventy feet (70') including radio and television receiving antennas, single satellite dish TVROs two meters (2m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, Federal licensed amateur radio stations and television receivers, as regulated by

chapter 2500 of this ordinance.

Adult uses - accessory, as regulated by chapter 2800 of this ordinance.

Commercial or business buildings and structures for a use accessory to the principal use, provided such use shall not exceed thirty percent (30%) of the gross floor space of the principal use or tenant bay, as applicable.

Off street loading, as regulated by chapter 1300 of this ordinance.

Off street parking, as regulated by chapter 1200 of this ordinance, but not including semitrailer trucks.

Open or outdoor display of merchandise for sale or rent as an accessory use; provided, that:

A. Outdoor display connected with the principal use is limited to twenty percent (20%) of the gross floor area of the principal building or tenant bay, as applicable.

B. The use does not take up parking space as required for conformity to this ordinance.

C. The outdoor display area is surfaced with bitumen.

D. The applicant demonstrates that pedestrian circulation is not disrupted as a result of the outdoor display area by providing the following:

1. Outdoor display area shall be segregated from through pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, or other methods.

2. Minimum clear passage zone for pedestrians at the perimeter of the outdoor display area shall be at least five feet (5') without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, streetlights, parking meters, or the like. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-35, 11-3-2003)

4501.4: CONDITIONAL USES:
The following are conditional uses in a B-W District, subject to additional requirements set forth in this ordinance: (Requires a conditional use permit as regulated by chapter 400 of this ordinance.)

Animal kennels and animal day care subject to the following conditions:

A. The facility's minimum size must provide for seventy five (75) square feet per dog and twenty (20) square feet per cat or any other animal boarded at any one time, exclusive of office or storage area. The facility must provide one cage or air kennel per animal.

B. Related ancillary services including training, grooming and food and accessory sales may be conducted or provided at the facility.

C. An exercise area shall be provided to accommodate the periodic exercising of animals boarded at the facility. The exercise area must be one hundred (100) square feet in size for each animal that occupies that area at any one time. Any outdoor exercise area must be fenced, must have a three foot (3') vegetative buffer, must be cleaned regularly, and any animal waste must be appropriately treated before it is allowed to enter any stormwater pond or storm sewer.

D. The facility must have a ventilation system that prohibits the transmission of odors or organisms between tenant bays. The ventilation system must be capable of completely exchanging internal air at a rate of 1.00 cfm/square foot of floor space per area dedicated for the keeping of animals exclusive of offices pursuant to chapter 1346 of the Minnesota State Building Code, as may be amended, these requirements can be met by the submission of an air exchange analysis, acceptable to the City from a Minnesota licensed contractor or engineer confirming compliance with said standards, otherwise, the facility ventilation system must be completely separate and independent of other tenant space within the building. Facility air temperature must be maintained between sixty degrees Fahrenheit (60°F) and eighty degrees Fahrenheit (80°F).

E. A sufficiently sized room/cage separate from the facility areas shall be provided to adequately separate sick or injured animals from healthy animals.

F. Wall finish materials below forty eight inches (48") in height shall be impervious, washable materials like sealed masonry, ceramic tile, glassboard, or marlite. Floor finish shall be sealed concrete or other approved impervious surface. Liquid-tight curbing, at least six inches (6") high, shall be installed along shared walls for sanitary confinement and water wash-down cleaning.

G. Animal wastes shall be immediately cleaned up with solid wastes being enclosed in a container of sufficient construction to eliminate odors and organisms. All animal waste must be properly disposed of daily.

H. The facility must be appropriately licensed per section 6-2-16 of the City Code and all conditions of said section must be satisfied.

I. The property owner shall provide the City with at least fourteen (14) days' notice of the animal kennel/day care intention to vacate the premises and allow a City inspection of the premises.

J. The facility must provide sufficient, uniformly distributed lighting to the kennel area.

K. Veterinary clinics that board ten (10) or fewer animals and pet stores are exempt from this conditional use permit requirement.

L. All requirements of chapter 2300 of this ordinance and section 6-2-18 of the City Code are met.

Automobile repair - major; provided, that:

A. The site consists of a minimum lot area of twenty thousand (20,000) square feet and minimum lot width of one hundred fifty feet (150').

B. Landscaping, screening, and buffer yards not less than twenty feet (20') in width shall be provided at the boundaries abutting an R district in compliance with section 1000.7 of this ordinance.

C. Parking or automobile storage space shall be screened from view of abutting rights-of-way or properties in compliance with section 1000.7 of this ordinance.

D. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by section 4500.4 of this ordinance for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements that are imposed for other uses of the site.

E. Provisions are made to control and reduce noise consistent with Minnesota pollution control standards.

F. All exterior building materials and construction, including those of accessory structures, must be in conformance with section 4501.8 of this chapter.

G. All painting must be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the

emission of fumes, dust or other particulate matter so that the use shall be in compliance with the state of Minnesota pollution control standards, Minnesota regulation APC 1-15, as amended.

H. The emission of odor by a use shall be in compliance with and regulated by the state of Minnesota pollution control standards, Minnesota regulation APC, as amended.

I. All flammable materials, including liquids and rags, shall conform with the applicable provisions of the city fire code[1].

Automobile repair - minor; provided, that:

A. The site consists of a minimum lot area of twenty thousand (20,000) square feet and minimum lot width of one hundred fifty feet (150').

B. Landscaping and screening not less than ten feet (10') in width shall be provided at the boundaries abutting an R district in compliance with section 1000.7 of this ordinance.

C. Parking or automobile storage space shall be screened from view of abutting rights of way or properties in compliance with section 1000.7 of this ordinance.

D. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by section 4500.4 of this ordinance for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements that are imposed for other uses of the property.

E. Provisions are made to control and reduce noise.

F. All exterior building materials and construction including accessory structures must be in conformance with section 4501.8 of this chapter.

Breweries with taprooms/brewpubs. Breweries are subject to the licensing provisions of title 4, chapter 1 of the city code, and the performance standards for such uses provided in chapter 2900 of this ordinance.

Car washes (drive-through, mechanical, and self-service); provided, that:

A. The car wash building shall meet the architectural standards of section 4501.8 of this chapter.

B. Car wash stacking space shall be constructed to accommodate the number of vehicles that may be washed in a thirty (30) minute period.

C. Provisions shall be made to control and reduce noise consistent with Minnesota pollution control standards.

Commercial and public radio and television transmitting antennas and public utility microwave antennas, as regulated by chapter 2500 of this ordinance.

Commercial, private and public satellite dish transmitting or receiving antennas in excess of two meters (2m) in diameter or six feet seven inches (6'7"), as regulated by chapter 2500 of this ordinance.

Daycare facilities, as regulated by chapter 1700 of this ordinance.

Drive-through service lanes. A drive-through service lane accessory to any permitted or conditionally permitted business or use shall be allowed only if the following additional criteria are satisfied:

A. Not less than one hundred twenty feet (120') of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty feet (60') per lane.

B. The stacking lane and its access must be designed to control traffic in a manner to protect the buildings and will not interfere with on site traffic circulation or access to required parking spaces.

C. No part of the public street or boulevard may be used for stacking of automobiles.

D. The stacking lane, order board intercom, and window placement shall be designed and located in such a manner as to minimize glare as to adjacent premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.

E. The drive-through lanes shall be screened from view of adjoining residential zoning districts and public street rights of way.

F. Hours of operation shall be limited as necessary to minimize the effect of nuisance factors such as traffic, noise, and glare.

G. A lighting and photometric plan will be required that illustrates that drive-through service lane lighting shall comply with section 1000.10 of this ordinance.

Limited, enclosed service, processing, or manufacturing activity accessory to a B-W permitted use or conditional use within this chapter; provided, that:

A. Such use does not constitute more than fifty percent (50%) of the gross floor area of the principal use.

B. Adequate off street parking and off street loading in compliance with the requirements of chapters 1200 and 1300 of this ordinance is provided.

C. All signing and informational or visual communication devices shall be in compliance with the provisions of the city code relating to signs[1].

D. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Motor vehicle sales, leasing/rental, service and repair; provided, that:

A. The minimum lot area shall be four (4) acres. The minimum lot width shall be one hundred fifty feet (150').

B. The outdoor sales lot must have a principal building. The principal building and any accessory buildings or structures shall meet the architectural standards of section 4501.8 of this chapter.

C. The outdoor sales lot shall be set back ten feet (10') from any lot line. The sales lot shall be curbed and landscaped to prevent vehicle encroachment into any setback.

D. The outdoor storage of waste material, debris, refuse, damaged vehicles, and junk vehicle parts and the like shall be contained within a specifically defined area of the site no greater than ten percent (10%) of the total site area. Said area must be located in the rear yard and encompassed by a minimum six foot (6') high screened security fence. Said fence must be accompanied by landscape plantings along all sides which face adjoining properties. Areas intended for the storage of damaged vehicles that may result in the loss of motor vehicle fluids (i.e., gasoline, oil, antifreeze, transmission fluid, battery acid, etc.) shall be designed to prevent the infiltration or drainage of these fluids into area soils or stormwater runoff and prevent the deterioration of parking and storage area surfaces.

E. The outdoor repair of motor vehicles or motor vehicle parts anywhere on the property is prohibited.

F. In addition to the required parking for the principal building or activities, one off street parking stall for every two thousand (2,000) square feet of outdoor motor vehicle sales area shall be required. Areas used for outdoor sales shall be separated from the required off street parking stalls. The required off street parking shall not be used for outdoor sales or storage and shall be specifically marked for customer or employee use.

G. All parking shall comply with the performance standards of chapter 1200 of this ordinance.

H. The entire site shall have a drainage system which shall be subject to city approval.

I. All lighting shall be hooded ninety degree (90°) cutoff lighting that directs lighting downward away from the public rights of way and so that no light or glare shines on adjacent property, buildings or structures.

J. An enclosed trash handling facility shall be provided which conforms with the following provisions:

1.The exterior wall treatment shall be of masonry construction and be similar and/or complement the principal building.

2.The enclosed trash receptacle shall be located in the rear yard.

3.The trash receptacle must be in an accessible location for trash pick up vehicles.

4.The trash enclosure must be fully screened and landscaped from view of adjacent properties and the public right-of-way.

Open or outdoor service, sale and rental as a principal or accessory use in excess of twenty percent (20%) of the floor area of the principal use; provided, that:

A. Outside services, sales and equipment rental connected with the principal use is limited to fifty percent (50%) of the gross floor area of the principal use.

B. Outside sales areas are fenced and screened from view of neighboring residential uses or an abutting R district in compliance with section 1000.7 of this ordinance.

C. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring properties and shall be in compliance with section 1000.10 of this ordinance.

D. The use does not take up parking space as required for conformity to this ordinance.

E. Sales area is paved.

F. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Outside storage, as regulated by section 1000.15 of this ordinance.

Overhead transmission and substation lines in excess of thirty three (33) kilovolts, as regulated by chapter 2100 of this ordinance.

Personal wireless service towers and antennas not located on a public structure, as regulated by chapter 2500 of this ordinance.

Transmission pipelines (i.e., pipelines not required for local distributing network), as regulated by chapter 2100 of this ordinance.

Wind energy conversion systems, as regulated by chapter 2400 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-35, 11-3-2003; 2005 Code; Ord. 2007-12, 10-1-2007; Ord. 2014-08, 10-20-2014; Ord. 2018-08, 3-5-2018)

Notes

1 1. See title 10, chapter 3 of the city code.

1 1. See title 10, chapter 7 of the city code.

4501.5: PROHIBITED USES:
Notwithstanding any other regulation within the City Code, the following are prohibited uses in a B-W District:

Pawnshops.

Thrift stores/secondhand dealers having a building floor area in excess of two thousand five hundred (2,500) square feet. (Ord. 2008-006, 8-4-2008; amd. Ord. 2021-10, 6-21-2021)

4501.6: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in a B-W District, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: Twenty thousand (20,000) square feet.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front Yard: Not less than thirty feet (30').

2. Side Yard:

a. Side Yard Abutting A Street: Not less than twenty feet (20') on any one side, nor less than thirty feet (30') on the side yard abutting a street.

b. Side Yards Abutting An R District: Not less than thirty feet (30') on the side yard abutting an R district, nor less than twenty feet (20') on the other side yard.

3. Rear Yard: Not less than thirty feet (30').

D. Maximum site coverage: Hard surface, including buildings, eighty percent (80%). (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-35, 11-3-2003)

4501.7: MAXIMUM BUILDING HEIGHT:
A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-35, 11-3-2003)

4501.8: ARCHITECTURAL STANDARDS:
In the B-W zoning district, fifty percent (50%) of all exterior wall finishes must be constructed of materials containing only brick, dimension stone, glass, stucco and its replicas, woods, rock faced block, or aggregate precast concrete panels. In the B-W zoning district, any exposed metal or fiberglass finish on all buildings shall be limited to no more than fifty percent (50%) of the total solid surface of all walls. For building walls which face public rights of way or abut residential uses, an exposed metal or fiberglass finish shall not exceed fifty percent (50%) of the wall area. Any metal finish utilized in the building shall be a minimum of 26-gauge steel. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment. (Ord. 1988-12, 12-19-1988; amd. Ord. 2003-35, 11-3-2003)

CHAPTER 4600

I-1 LIMITED INDUSTRIAL DISTRICT

SECTION:

4600.1: Purpose

4600.2: Permitted Uses

4600.3: Accessory Uses

4600.4: Conditional Uses

4600.5: Lot Requirements And Setbacks

4600.6: Maximum Building Height

4600.7: Minimum District Size (Rep. by Ord. 2018-06, 3-5-2018)

4600.8: Prohibited Uses

4600.1: PURPOSE:
The purpose of the I-1 Limited Industrial District is to permit and encourage the development of high quality industrial uses, compatible with the aesthetic character of the community; and to encourage the development of such industries as are able and willing to achieve superior standards of design and environmental protection. The location of such industrial uses shall be consistent with the general locations shown in the Comprehensive Plan. (Ord. 1988-12, 12-19-1988)

4600.2: PERMITTED USES:
The following are permitted uses in the I-1 District:

Machine shops, lumberyards, etc.

Major auto repair.

Manufacturing or assembly of a wide variety of products that produces no exterior noise, glare, fumes, obnoxious products, byproducts or wastes, or creates other objectional impact on the environment, including the generation of large volumes of traffic. Examples of such uses are:

A. Fabrication or assembly of small products such as optical, electronic, pharmaceutical, medical supplies and equipment.

B. Printing and publishing.

Personal wireless service towers and antennas if located upon a public structure, including necessary equipment buildings, as regulated by chapter 2500 of this ordinance.

Warehousing of nonexplosive material or equipment.

Offices related to the above. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997; Ord. 2004-27, 12-6-2004)

4600.3: ACCESSORY USES:
The following are permitted accessory uses in an I-1 District:

All permitted accessory uses as allowed in a B-3 District (section 4400.3 of this ordinance).

Radio and television receiving antennas including single satellite dish TVROs two meters (2m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by chapter 2500 of this ordinance.

Semitruck and trailer parking. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997)

4600.4: CONDITIONAL USES:
The following are conditional uses in an I-1 District: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

Accessory, enclosed retail, rental, service, or processing manufacturing activity other than that allowed as a permitted use or conditional use within this chapter; provided, that:

A. Such use is allowed as a permitted use in a business district.

B. Such use does not constitute more than fifty percent (50%) of the gross floor area of the principal use.

C. Adequate off street parking and off street loading in compliance with the requirements of chapters 1200 and 1300 of this ordinance is provided.

D. All signing and informational or visual communication devices shall be in compliance with the provisions of the City Code relating to signs[1].

E. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Animal kennels and animal day care subject to the following conditions:

A. The facility's minimum size must provide for seventy five (75) square feet per dog and twenty (20) square feet per cat or any other animal boarded at any one time, exclusive of office or storage area. The facility must provide one cage or air kennel per animal.

B. Related ancillary services including training, grooming and food and accessory sales may be conducted or provided at the facility.

C. An exercise area shall be provided to accommodate the periodic exercising of animals boarded at the facility. The exercise area must be one hundred (100) square feet in size for each animal that occupies that area at any one time. Any outdoor exercise area must be fenced, must have a three foot (3') vegetative buffer, must be cleaned regularly, and any animal waste must be appropriately treated before it is allowed to enter any stormwater pond or storm sewer.

D. The facility must have a ventilation system that prohibits the transmission of odors or organisms between tenant bays. The ventilation system must be capable of completely exchanging internal air at a rate of 1.00 cfm/square foot of floor space per area dedicated for the keeping of animals exclusive of offices pursuant to chapter 1346 of the Minnesota State Building Code, as may be amended, these requirements can be met by the submission of an air exchange analysis, acceptable to the City from a Minnesota licensed contractor or engineer confirming compliance with said standards, otherwise, the facility ventilation system must be completely separate and independent of other tenant space within the building. Facility air temperature must be maintained between sixty degrees Fahrenheit (60°F) and eighty degrees Fahrenheit (80°F).

E. A sufficiently sized room/cage separate from the facility areas shall be provided to adequately separate sick or injured animals from healthy animals.

F. Wall finish materials below forty eight inches (48") in height shall be impervious, washable materials like sealed masonry, ceramic tile, glassboard, or marlite. Floor finish shall be sealed concrete or other approved impervious surface. Liquid-tight curbing, at least six inches (6") high, shall be installed along shared walls for sanitary confinement and water wash-down cleaning.

G. Animal wastes shall be immediately cleaned up with solid wastes being enclosed in a container of sufficient construction to eliminate odors and organisms. All animal waste must be properly disposed of daily.

H. The facility must be appropriately licensed per section 6-2-16 of the City Code and all conditions of said section must be satisfied.

I. The property owner shall provide the City with at least fourteen (14) days' notice of the animal kennel/day care intention to vacate the premises and allow a City inspection of the premises.

J. The facility must provide sufficient, uniformly distributed lighting to the kennel area.

K. Veterinary clinics that board ten (10) or fewer animals and pet stores are exempt from this conditional use permit requirement.

L. All requirements of chapter 2300 of this ordinance and section 6-2-18 of the City Code are met.

Commercial and public radio and television transmitting antennas and public utility microwave antennas, as regulated by chapter 2500 of this ordinance.

Commercial, private and public satellite dish transmitting or receiving antennas in excess of two meters (2m) in diameter, as regulated by chapter 2500 of this ordinance.

Open or outdoor service, sale and rental as a principal or accessory use; provided, that:

A. Outside services, sales and equipment rental connected with the principal use is limited to fifty percent (50%) of the gross floor area of the principal use.

B. Outside sales areas are fenced and screened from view of neighboring residential uses or an abutting R district in compliance with section 1000.7 of this ordinance.

C. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with section 1000.10 of this ordinance.

D. The use does not take up parking space as required for conformity to this ordinance.

E. Sales area is grassed or surfaced to control dust.

F. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Outdoor storage as an accessory use as regulated by subsection 1000.15B of this ordinance.

Personal wireless service towers and antennas not located on a public structure, as regulated by chapter 2500 of this ordinance.

Sports training facilities; provided that:

A. Daily occupancy, for training and scheduled sessions, may not exceed one person per two hundred (200) square feet of floor area. Occupancy during special events and tournaments may exceed this standard by fifty percent (50%).

B. The facility must meet all Building and Fire Code requirements for the proposed use. The facility has adequate parking for the use at the rate of one parking stall per three hundred fifty (350) square feet of the gross floor of the proposed building space.

C. All parking for the use is contained within the building's designated parking area. Special event, or tournament, parking shall be onsite or an adjoining site through an agreement with adjoining property owners.

D. A traffic study may be required under any of the following conditions:

1.The use generates traffic beyond the estimated traffic of a manufacturing use of equal size level and resulting in more than one hundred (100) trips in any peak hour.

2.The City Engineer determines that the site location, access, or traffic generation may result in traffic conflicts, safety issues, or a reduction of the street service level classification.

3.The conditional use permit must address all issues identified in the traffic study and the property owner shall be responsible for costs associated with improvements deemed necessary to mitigate traffic issues generated by the proposed use.

E. The facility must have direct access from a collector street.

F. The City may impose limits on the hours of operation to reduce parking conflicts. (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997; Ord. 2004-27, 12-6-2004; Ord. 2017-09, 10-2-2017; Ord. 2018-08, 3-5-2018)

Notes

1 1. See title 10, chapter 7 of the City Code.

4600.5: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in an I-1 District, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot Area: The minimum lot area within the I-1 District shall be determined by the criteria for parking, loading, minimum yards and setback requirements and building coverage described for this district.

B. Lot Width: One hundred feet (100').

C. Setbacks:

1. Front yard: Thirty feet (30').

2. Side yard:

a. Corner lot: Twenty feet (20').

b. Interior lot: Ten feet (10').

3. Rear yard: Twenty feet (20').

D. Maximum Site Coverage:

1. Hard surface, including buildings: Eighty five percent (85%). (Ord. 1988-12, 12-19-1988; amd. Ord. 1997-2, 6-3-1997; Ord. 2012-002, 7-16-2012; Ord. 2018-06, 3-5-2018)

4600.6: MAXIMUM BUILDING HEIGHT:
Maximum building height shall not exceed forty five feet (45') except by conditional use permit. (Ord. 2018-06, 3-5-2018)

4600.7: MINIMUM DISTRICT SIZE:
(Rep. by Ord. 2018-06, 3-5-2018)

4600.8: PROHIBITED USES:
The following are prohibited uses within the I-1 District:

Manufacturing or assembly of large products that produces noise, glare, fumes, vibrations, obnoxious products, byproducts or wastes, or creates other objectionable impacts on the environment and large volumes of traffic. Examples of such uses include, but are not limited to:

A. Large product assembly.

B. Concrete product plants.

C. Building materials production.

D. Clothing or apparel manufacturing. (Ord. 2004-27, 12-6-2004)

CHAPTER 4601

RESERVED

CHAPTER 4700

I-2 GENERAL INDUSTRIAL DISTRICT

SECTION:

4700.1: Purpose

4700.2: Application Of Performance Requirements

4700.3: Permitted Uses

4700.4: Accessory Uses

4700.5: Conditional Uses

4700.6: Lot Requirements And Setbacks

4700.7: Maximum Building Height

4700.1: PURPOSE:
The purpose of the I-2 General Industrial District is to provide areas suitable for the location of general industrial activities which have adequate and convenient access to major streets and provide effective controls for "nuisance" and pollution characteristics. It is further the intent of the I-2 District to encourage industrial development in a compact and orderly manner consistent with the general locations shown in the Comprehensive Plan providing a compatible relationship with other land uses where a full complement of urban services are provided. (Ord. 1988-12, 12-19-1988)

4700.2: APPLICATION OF PERFORMANCE REQUIREMENTS:
All uses provided for under the I-2 District shall show proof of ability to comply with the performance requirements of this ordinance prior to issuance

of any construction permit. (Ord. 1988-12, 12-19-1988)

4700.3: PERMITTED USES:
The following are permitted uses in the I-2 District:

Any use permitted in the I-1 District (section 4600.2 of this ordinance).

Automobile major repair.

Other: Appliance assembly and warehousing, machine shops, freight terminals and classification yards, concrete product plants, building materials production and clothing or apparel manufacturing and similar uses. (Ord. 1988-12, 12-19-1988)

4700.4: ACCESSORY USES:
The following are permitted accessory uses in an I-2 District:

All permitted accessory uses as allowed in an I-1 District (section 4600.3 of this ordinance). (Ord. 1988-12, 12-19-1988)

4700.5: CONDITIONAL USES:
The following are conditional uses in an I-2 District: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

All conditional uses as allowed in an I-1 District (section 4600.4 of this ordinance).

Sports training facilities; provided that:

A. Daily occupancy, for training and scheduled sessions, may not exceed one person per two hundred (200) square feet of floor area. Occupancy during special events and tournaments may exceed this standard by fifty percent (50%).

B. The facility must meet all Building and Fire Code requirements for the proposed use. The facility has adequate parking for the use at the rate of one parking stall per three hundred fifty (350) square feet of the gross floor of the proposed building space.

C. All parking for the use is contained within the building's designated parking area. Special event, or tournament, parking shall be onsite or an adjoining site through an agreement with adjoining property owners.

D. A traffic study may be required under any of the following conditions:

1.The use generates traffic beyond the estimated traffic of a manufacturing use of equal size level and resulting in more than one hundred (100) trips in any peak hour.

2.The City Engineer determines that the site location, access, or traffic generation may result in traffic conflicts, safety issues, or a reduction of the street service level classification.

3.The conditional use permit must address all issues identified in the traffic study and the property owner shall be responsible for costs associated with improvements deemed necessary to mitigate traffic issues generated by the proposed use.

E. The facility must have direct access from a collector street.

F. The City may impose limits on the hours of operation to reduce parking conflicts.

Storage, utilization or manufacture of materials or products which could decompose by demolition; refuse and garbage disposal; crude oil; bulk fuel, gasoline or other liquid storage; provided, that:

A. There shall be a minimum lot area of twenty thousand (20,000) square feet and minimum lot widths of one hundred fifty feet (150').

B. There shall be a drainage system, subject to the approval of the City Engineer, installed.

C. The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with section 1000.10 of this ordinance.

D. At the boundaries of a residential district, a strip of not less than five feet (5') shall be landscaped and screened in compliance with chapter 1000 of this ordinance.

E. Each light standard shall be landscaped.

F. Vehicular access points shall create a minimum of conflict with through traffic movement, shall comply with chapter 1200 of this ordinance and shall be subject to the approval of the City Engineer.

G. All signing and informational or visual communication devices shall be minimized and shall be in compliance with the applicable provisions of the City Code [1] .

H. Provisions are made to control and minimize noise, air and water pollution.

I. There shall be no outside storage except as allowed in compliance with section 1000.15 of this ordinance.

J. All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions.

K. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met. (Ord. 1988-12, 12-19-1988; amd. Ord. 2017-09, 10-2-2017)

Notes

[1] 1. See title 10, chapter 7 of the City Code.

4700.6: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in an I-2 District, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: The minimum lot area within the I-2 District shall be determined by the criteria for parking, loading, minimum yards and setback requirements and building coverage described for this district.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front yard: Thirty feet (30').

2. Side yard:

a. Corner lot: Twenty feet (20').

b. Interior lot: Ten feet (10').

3. Rear yard: Twenty feet (20').

D. Maximum site coverage:

1. Hard surface, including buildings: Eighty five percent (85%). (Ord. 1988-12, 12-19-1988; amd. Ord. 2012-002, 7-16-2012; Ord. 2018-06, 3-5-2018)

4700.7: MAXIMUM BUILDING HEIGHT:
Maximum building height shall not exceed forty five feet (45') except by conditional use permit. (Ord. 2018-06, 3-5-2018)

CHAPTER 4800

PUD PLANNED UNIT DEVELOPMENT DISTRICT

SECTION:

4800.1: Benefit

4800.2: Purpose

4800.3: Design Criteria

4800.4: Uses

4800.5: Procedures

4800.1: BENEFIT:
The proposed PUD shall accomplish a majority of the purposes and the design criteria stated in sections 4800.2 and 4800.3 of this chapter and shall not simply be for the enhanced economic gain of the applicant. It shall be the applicant's responsibility to demonstrate compliance with this requirement and provide specific documentation addressing this matter as part of the zoning application. Based on this documentation, the city shall determine that some benefit will be realized by the city if a PUD is permitted. (Ord. 1988-12, 12-19-1988; amd. Ord. 2000-5, 7-5-2000)

4800.2: PURPOSE:
The purpose of the PUD planned unit development district is to provide comprehensive procedures and standards intended to allow flexibility in the development of neighborhoods and/or nonresidential areas by incorporating design modifications and/or a mixture of uses. The PUD process, by allowing deviation from the strict district and performance provisions of this ordinance, is intended to encourage:

A. Innovations in development to the extent that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and placement of structures and by the conservation and more efficient use of land in such developments.

B. Higher standards of site and building design through the use of trained and experienced land planners, architects, landscape architects and engineers.

C. More convenience in location and design of development and service facilities.

D. The preservation and enhancement of desirable site characteristics such as natural topography, wetlands, woodlands, and geologic features and the prevention of soil erosion which are over and above minimum standards and expectations.

E. A creative use of land and related physical development which allows for a phased and orderly development and land use pattern.

F. An efficient use of land resulting in smaller networks of utilities and streets, thereby lowering development costs, long term maintenance expenses, and public investments.

G. A development pattern in harmony with the objectives of the Albertville comprehensive plan (PUD is not intended as a means to vary applicable planning and zoning principles).

H. A more desirable and creative environment than might be possible through the strict application of the zoning and subdivision regulations of the city. (Ord. 1988-12, 12-19-1988; amd. Ord. 2000-5, 7-5-2000)

4800.3: DESIGN CRITERIA:
Notwithstanding other provisions of this ordinance, a PUD should accomplish the following:

A. Create a range of densities, housing types and building configurations and discourage large housing projects that consist of a single building type.

B. Attached and multiple-family housing should be built in small groupings so that it fits into the overall residential context rather than being sequestered into large project sites. No more than approximately seventy five (75) units of any type of attached or multiple-family housing should be built on a single parcel.

C. Attached and multiple housing buildings should emulate single- family housing in its basic architectural elements - pitched roofs, articulated facade, identifiable front door and orientation to the local public street. Balconies overlooking the public street are highly encouraged. When detached garages cannot be located to the rear or on the interior of the block, they should be set back similar to the requirements for single-family housing. Buildings are to reflect residential character through the use of compatible scale, roof pitch, building massing and materials.

D. Design the front and back facades with appropriate levels of formality. The front, as the more public side of the house, should receive the more formal treatment, with trash/recycling storage, play equipment and outdoor storage located in the back. The main entry should face the street.

E. Buildings should address the street with varied and articulated facades, frequent entries and windows. Porches and balconies should be encouraged, and facades consisting of long blank walls or series of garage doors are prohibited.

F. If a multiple-family building or attached housing is developed near single-family detached housing, ensure that the width of the building facade facing the street is similar to that of a single- family house. Attached units should be grouped in rows of no more than four (4) to six (6) units to avoid a monolithic appearance.

G. Provide each housing unit with clearly defined private or semiprivate outdoor space such as a yard, patio, porch or balcony, with direct access from inside the unit. Boundaries of private outdoor space should be clearly defined with elements such as fencing, sidewalks and vegetation.

H. Control access by nonresident pedestrians via gateways, fences, plant materials or enclosed location. Locate outdoor spaces to allow for such surveillance from inside homes. Locate all outdoor spaces, distinguishing between those reserved for residents and those open to the public. Enclose the shared outdoor space with buildings, low fences or hedges, and paths. Clearly define the boundaries and transitions between shared and private outdoor space.

I. Provide a clear path system that connects each housing unit to designations within the site and the surrounding neighborhood. Paths should be logical and predictable in their routes and should be linked to the public sidewalk system. Keep public paths at the edge of the site, distinguish between public paths and private outdoor space, and make paths visible from shared and private spaces.

J. On large sites, extend the network of surrounding public streets through the site to improve circulation, visibility, security and integrating onto the surrounding neighborhood.

K. Locate residential parking near each multiple-family housing unit, with a direct paved path to the front or back door, while locating visitor parking near public spaces and public paths. Ensure that parking spaces are visible from within the resident's home and provide sufficient lighting. If parking must be located near the street frontage, it should be screened by a low hedge, fence, gate or similar visual buffer.

L. Use vegetation in and around parking lots to provide shade and visual relief. (Ord. 1988-12, 12-19-1988; amd. Ord. 2000-5, 7-5-2000)

4800.4: USES:

A. All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the various zoning districts defined in this ordinance that are consistent with the comprehensive plan shall be treated as potentially allowable uses within a PUD district.

B. Small cell wireless support structures are allowed as a conditional use. (Ord. 1988-12, 12-19-1988; amd. Ord. 2000-5, 7-5-2000; Ord. 2019-13, 12-16-2019)

4800.5: PROCEDURES:

All applications for PUD shall follow the procedures and requirements as outlined in chapter 2700 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 2000-5, 7-5-2000)

CHAPTER 4850

P/I PUBLIC/INSTITUTIONAL DISTRICT

SECTION:

4850.1: Purpose

4850.2: Permitted Uses

4850.3: Accessory Uses

4850.4: Conditional Uses

4850.5: Interim Uses

4850.6: Lot Requirements And Setbacks

4850.7: Maximum Building Height

4850.8: Maximum Lot Coverage

4850.1: PURPOSE:

The purpose of the P/I district is to provide a specific zoning district for facilities devoted to serving the public and specialized government activities, and semipublic uses. It is unique in that the primary objective of uses within the P/I district is the provision of services, frequently on a nonprofit basis, rather than the sale of goods or services. It is intended that uses within a P/I district will be compatible with adjoining development, and they normally will be located on or in proximity to an arterial street. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-14, 6-17-1996)

4850.2: PERMITTED USES:

The following are permitted uses within a P/I district:

Daycare nurseries.

Essential services.

Nursing homes, halfway houses, residential care facilities, and similar group housing, but not including hospitals, sanitariums, or similar institutions.

Parks and recreational facilities, structures, and buildings, municipal only.

Personal wireless service towers and antennas if located upon a public structure, including necessary equipment buildings, as regulated by chapter 2500 of this ordinance.

Private clubs and lodges.

Religious institutions, such as chapels, temples, synagogues, and mosques, limited to worship and related religious social events.

Trade schools.

Unless otherwise specifically listed, publicly owned civic or cultural buildings, such as libraries, city offices, auditoriums, public administration buildings and historical developments. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-14, 6-17-1996; Ord. 1997-2, 6-3-1997)

4850.3: ACCESSORY USES:

Subject to applicable provisions of this ordinance, the following are permitted accessory uses in a P/I district:

Accessory uses customarily incidental to the uses allowed in sections 4850.2, 4850.4, and 4850.5 of this chapter.

Fences, as regulated by sections 1000.6 and 1000.7 of this ordinance.

Off street parking and loading areas, as regulated by chapters 1200 and 1300 of this ordinance.

Parks, playgrounds, or athletic fields.

Radio and television receiving antennas including single satellite dish TVROs two meters (2m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by chapter 2500 of this ordinance.

Signing, as regulated by chapter 2000 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-14, 6-17-1996; Ord. 1997-2, 6-3-1997; 2005 Code)

4850.4: CONDITIONAL USES:
The following are conditional uses in a P/I district: (Requires a conditional use permit based upon procedures set forth in and regulated by chapter 400 of this ordinance.)

Automobile parking lots as a principal use; provided, that:

A. The use and design is in conformance with chapter 1200 of this ordinance.

B. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Cemeteries or memorial gardens; provided, that:

A. The site is landscaped in accordance with section 1000.7 of this ordinance.

B. The use is available to the public.

C. The land area of the property containing such use or activity meets the minimum established for the district.

D. All cemetery buildings shall meet the minimum district setbacks for principal structures. Columbarium, head stones, grave markers and other accessory cemetery structures shall be setback a minimum of ten feet (10') from all lot lines.

E. The site accesses on a collector or arterial street.

F. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied.

Colleges, seminaries and other institutions of higher education; provided, that:

A. Adequate parking and loading is provided in conformance with chapters 1200 and 1300 of this ordinance.

B. Provisions are made to buffer and screen any surrounding residential uses.

C. The site is served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.

D. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied.

Commercial and public radio and television transmitting antennas and public utility microwave antennas, as regulated by chapter 2500 of this ordinance.

Commercial, private and public satellite dish transmitting or receiving antennas in excess of two meters (2m) in diameter, as regulated by chapter 2500 of this ordinance.

Community centers; provided, that:

A. Adequate screening from abutting and adjoining residential uses and landscaping is provided.

B. Adequate off street parking and access is provided and that such parking is adequately screened and landscaped from adjoining and abutting residential uses.

C. Adequate off street loading and service entrances are provided and regulated, where applicable, by chapter 1300 of this ordinance.

D. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied.

Daycare, social services or other nondirectly related worship type activities as an accessory use within a religious institutional building(s); provided, that:

A. Compatibility with surrounding existing and potential uses is maintained.

B. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied.

Governmental and public regulated utility buildings, street garages and structures necessary for the health, safety and general welfare of the community; provided, that:

A. Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.

B. Equipment is completely enclosed in a permanent structure with no outside storage.

C. Adequate screening from neighboring uses and landscaping is provided in compliance with section 1000.7 of this ordinance.

D. The provisions of subsection 400.2F of this ordinance are considered and determined to satisfied.

Hospitals and residential care facilities including extended care facilities for mentally challenged, rest homes and care for the aged, ill and infirm; provided, that:

A. Interior side yards are screened.

B. Only the rear yard shall be used for play or recreational areas. Said area shall be fenced and controlled and screened in compliance with section 1000.7 of this ordinance.

C. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.

D. All signing and informational or visual communication devices shall be in compliance with chapter 2000 of this ordinance.

E. All state laws and statutes governing such use are strictly adhered to and all required operating permits are secured.

F. Adequate off street parking is provided in compliance with chapter 1200 of this ordinance.

G. Off street loading space in compliance with chapter 1300 of this ordinance is provided.

H. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied.

Living quarters which are provided as an accessory use to a principal use in section 4850.2 of this chapter or to a conditional use in this section; provided, that:

A. The use shall not be used as commercial rental property.

B. A maximum of one such dwelling shall be allowed.

C. There shall be a demonstrated and documented need for such a facility.

D. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied.

Personal wireless service towers and antennas not located on a public structure, as regulated by chapter 2500 of this ordinance.

Preschool, elementary, junior or senior high schools having a regular course of study accredited by the state of Minnesota.

A. Side yards shall be double that required for the district, but no greater than forty feet (40').

B. Adequate screening from abutting residential uses and landscaping is provided in compliance with section 1000.7 of this ordinance.

C. Adequate off street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with chapter 1200 of this ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with section 1000.7 of this ordinance.

D. Adequate off street loading and service entrances are provided and regulated, where applicable, by chapter 1300 of this ordinance.

E. The provisions of subsection 400.2F of this ordinance are considered and satisfactorily met.

Public or semipublic recreational buildings and/or facilities, other than municipal; provided, that:

A. The site is landscaped.

B. The use is available to the public.

C. The land area of the property containing such use or activity meets the minimum established for the district.

D. The use meets the minimum setback requirements for principal structures.

E. The site accesses on a minor arterial.

F. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied.

Retail commercial activities and personal services; provided, that:

A. Merchandise is sold at retail.

B. Personal services are limited to those uses and activities which are allowed as a permitted or accessory use within a B-2 zoning district.

C. The retail activity and personal services are located within a structure whose principal use is not commercial sales.

D. The retail activity and personal services shall not occupy more than fifteen percent (15%) of the gross floor area of the building.

E. The retail activity and personal services are not located within a structure whose principal use is residential.

F. No directly or indirectly illuminated sign or sign in excess of ten (10) square feet identifying the name of the business shall be visible from the outside of the building.

G. No signs or posters of any type advertising products for sale or services shall be visible from the outside of the building.

H. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied.

The lot area requirement for permitted uses may be reduced; provided, that:

A. Compatibility with surrounding existing and potential uses is maintained.

B. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied.

Other uses of the same general character as those listed in this section and section 4850.2 of this chapter; provided, that:

A. Compatibility with surrounding existing and potential uses is maintained.

B. The provisions of subsection 400.2F of this ordinance are considered and determined to be satisfied. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-14, 6-17-1996; Ord. 1997-2, 6-3-1997; 2005 Code; Ord. 2007-12, 10-1-2007; Ord. 2021-09, 6-21-2021)

4850.5: INTERIM USES:
Subject to applicable provisions of this ordinance, the following are interim uses within a P/I district:

None. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-14, 6-17-1996)

4850.6: LOT REQUIREMENTS AND SETBACKS:
The following minimum requirements shall be observed in a P/I district, subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot area: One acre.

B. Lot width: One hundred feet (100').

C. Setbacks:

1. Front yard: Not less than thirty five feet (35').
2. Side yard: Not less than twenty feet (20') on any one side; not less than thirty five feet (35') on the side yard abutting the major street.
3. Rear yard: Twenty five feet (25'). (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-14, 6-17-1996)

4850.7: MAXIMUM BUILDING HEIGHT:

A. Principal building: Thirty five feet (35').

B. Accessory building: Per section 1000.4 of this ordinance. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-14, 6-17-1996)

4850.8: MAXIMUM LOT COVERAGE:

No structure or combination of structures shall occupy more than forty percent (40%) of the lot area. (Ord. 1988-12, 12-19-1988; amd. Ord. 1996-14, 6-17-1996)

CHAPTER 4900

S SHORELAND OVERLAY DISTRICT

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4901.0: STATUTORY AUTHORIZATION AND PURPOSE:

4901.1: STATUTORY AUTHORIZATION:
This shoreland chapter is adopted pursuant to the authorization and policies contained in Minnesota statutes 103G, Minnesota regulations parts 6120.2500 to 6120.3900, and the planning and zoning enabling legislation in Minnesota statutes chapter 462. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; 2005 Code)

4901.2: PURPOSE:
The uncontrolled use of the shorelands of Albertville affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interest of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The shorelands within the city are hereby designated as shoreland districts, and the requirements set forth in this chapter shall govern development and other activities within these districts. The classification of the shoreland areas shall govern the use, alteration and development of these areas according to said classification. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4902.0: GENERAL PROVISIONS AND DEFINITIONS:

4902.1: JURISDICTION:
The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in section 4904.0 of this chapter. Pursuant to Minnesota regulations parts 6120.2500 to 6120.3900, no lake, pond, or flowage less than ten (10) acres in size in municipalities or twenty five (25) acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4902.2: COMPLIANCE:
The use of any shoreland of public waters; the size and shape of lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4902.3: ENFORCEMENT:
The city is responsible for the administration and enforcement of this chapter. Any violation of the provisions of this chapter or failure to comply with any of these requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to section 4903.1 of this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4902.4: INTERPRETATION:
In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city council and shall not be deemed a limitation or repeal of any other powers granted by state statutes. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4902.5: SEVERABILITY:
If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4902.6: ABROGATION AND GREATER RESTRICTIONS:
It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4903.0: ADMINISTRATION:

4903.1: PERMITS REQUIRED:
!!! 4903.11.A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by section 4905.3 of this chapter. Application for a permit shall be made to the building official on the forms provided. The application shall include the necessary information so that the building official can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

4903.12.Permits shall stipulate that any identified nonconforming sewage treatment system, as defined by section 4905.8 of this chapter, shall be reconstructed or replaced in accordance with the provisions of this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4903.2: CERTIFICATE OF ZONING COMPLIANCE:
The zoning administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in section 4903.1 of this chapter. This certificate will specify that the use of land conforms to the requirements of this chapter. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in section 4902.3 of this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4903.3: VARIANCES:
!!! 4903.31.Variances may only be granted in accordance with Minnesota statutes chapter 462, as applicable. A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties

and the public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

4903.32.The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in section 4903.42 of this chapter shall also include the board of adjustment's summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.

4903.33.For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4903.4: NOTIFICATIONS TO THE DEPARTMENT OF NATURAL RESOURCES:
!!! 4903.41.Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner of the state department of natural resources or the commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearing to consider proposed subdivisions/plats must include copies of the subdivision/plat.

4903.42.A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls, must be sent to the commissioner or the commissioner's designated representative and postmarked within ten (10) days of final action. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; 2005 Code)

4904.0: SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS:

4904.1: SHORELAND CLASSIFICATION SYSTEM:
The public waters of the city have been classified below consistent with the criteria found in Minnesota regulations part 6120.3300 and the protected water inventory map for Wright County:

4904.11.Definition: The shoreland area for the water bodies listed in section 4904.12 of this chapter shall be as defined in section 200.2 of this ordinance, definition of "shoreland" under the term "shoreland related definitions", and as shown on the official zoning map.

4904.12.Lakes:

Natural Environmental Lakes	Protected Waters Inventory ID Number
School Lake	86-0025
Mud Lake	86-0026
Tributaries	
Unnamed creek to MR section 36, basin 25 (Otsego Creek)	

(Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; Ord. 2004-03, 1-5-2004)

4904.2: LAND USE DISTRICT DESCRIPTIONS:
!!! 4904.21.Overlay District: The shorelands of the city are hereby designated as shoreland overlay districts. These districts are further divided into S-1 and S-2 districts as shown on the zoning map. The S-1 designation applies to most of the shorelands of Albertville. The S-2 designation applies only to a small portion of the shorelands located in and near the downtown business area.

A. Requirements applicable to the S-1 district are as follows: In addition to the requirements imposed by section 4904.22 of this chapter, this chapter shall be applied to and be superimposed (overlayed) upon those land areas where this chapter applies, as defined in section 200.2 of this ordinance, definition of "shoreland" under the term "shoreland related definitions". As such, the requirements of this chapter shall be in addition to underlying zoning districts and land use regulations applied by the city within the purview of this ordinance. Under this joint application of zoning regulations, the more restrictive requirements shall apply.

B. Only the following requirements shall be applicable to the S-2 district: All provisions of the underlying zoning district(s), and section 4905.8 of this chapter shall apply in the S-2 overlay district.

4904.22.Conditional Uses: All commercial, industrial, public/semipublic, agricultural, extractive uses and mining of metallic minerals and peat within the jurisdiction of this chapter, as defined in section 200.2 of this ordinance, definition of "shoreland" under the term "shoreland related definitions", and which lie within overlay district S-1 are hereby designated conditional uses, except essential governmental service uses whose use classifications shall remain unchanged by the shoreland overlay district. This section shall not apply to the S-2 district. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4905.0: ZONING AND WATER SUPPLY/SANITARY PROVISIONS:

4905.1: LOT AREA AND WIDTH STANDARDS:
The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex, and quad residential lots created after the effective date hereof for the lake classifications are the following:

4905.11.Unsewered Lakes:

A. Natural Environment:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

4905.12.Sewered Lakes:

A. Natural Environment:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

4905.13.Additional Special Provisions:

A. Residential subdivisions with dwelling unit densities exceeding those in the tables in sections 4905.11 and 4905.12 of this chapter can only be allowed if designed and approved as residential planned unit developments under section 4908.0 of this chapter. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in section 4905.12 of this chapter can only be used if publicly owned sewer system service is available to the property.

B. Subdivisions of duplexes, triplexes, and quads on natural environment lakes must also meet the following standards:

1.Each building must be set back at least two hundred feet (200') from the ordinary high water level;

2.Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;

3.Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and

4.No more than twenty five percent (25%) of a lake's shoreline can be in duplex, triplex, or quad developments. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4905.2: PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES:
!!! 4905.21.Placement Of Structures On Lots: When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone. Except as otherwise allowed by subsection E of this section, structures shall be located as follows:

A. Structure And On Site Sewage System Setbacks (In Feet) From Ordinary High Water Level*:

Classes Of Public Waters	Setbacks* Structures		Sewage Treatment System
	Unsewered	Sewered	
Lakes			
Natural environment	150	150	150

*One water oriented accessory structure designed in accordance with section 4905.22 of this chapter may be set back a minimum distance of ten feet (10') from the ordinary high water level.

B. Additional Structure Setbacks: The following additional structure setbacks apply, regardless of the classification of the water body:

Setback From	Setback (In Feet)
Top of bluff	30
Unplatted cemetery	50
Right of way line of federal, state, or county highway	50
Right of way line of town road, public street, or other roads or streets not classified	20

C. Bluff Impact Zones: Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

D. Uses Without Water Oriented Needs: Commercial, industrial, public and semipublic uses without water oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

E. Exceptions To Structure Setback Requirements: The following shall be considered exceptions to the structure setback requirements of this section:

1. Municipally owned wastewater treatment plant facilities requiring location on or near public waters.

2. Planned unit developments as outlined in subsection 4908.75E of this chapter.

4905.22.Design Criteria For Structures:

A. High Water Elevations: Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or floodproofed must be determined as follows:

1. For lakes, by placing the lowest floor at a level at least three feet (3') above the highest known water level, or three feet (3') above the ordinary high water level, whichever is higher. The minimum elevation requirements of this subsection shall not apply to municipally owned wastewater treatment structures, provided the city council, upon recommendation of the city engineer, approves the design of all such structures so as to eliminate or minimize the risk of damage from potential flooding;

2. For rivers and streams, by placing the lowest floor at least three feet (3') above the highest flood mark of record, if data are available. If data are not available, by placing the lowest floor at least three feet (3') above the ordinary high water level, or by conducting a technical evaluation to

determine effects of proposed construction upon flood stages and flood flows and to establish a floor protection elevation. Under all three (3) approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota regulations parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

3. Water oriented accessory structures may have the lowest floor placed lower than the elevation determined in this subsection if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment are placed above the elevation, and if long duration flooding is anticipated, the structure is built to withstand ice action and wind driven waves and debris.

B. Water Oriented Accessory Structures: Each lot may have one water oriented accessory structure not meeting the normal setback in section 4905.21 of this chapter if this water oriented accessory structure complies with the following provisions:

1. The structure or facility must not exceed ten feet (10') in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks must not exceed eight feet (8') above grade at any point;

2. The setback of the structure or facility from the ordinary high water level must be at least ten feet (10');

3. The structure or facility must be treated to reduce visibility as viewed from public water and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;

4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area; and

5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

C. Stairways, Lifts, And Landings: Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

1. Stairways and lifts must not exceed four feet (4') in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments;

2. Landings for stairways and lifts on residential lots must not exceed thirty two (32) square feet in area. Landings larger than thirty two (32) square feet may be used for commercial properties, public open space recreational properties, and planned unit developments;

3. Canopies or roofs are not allowed on stairways, lifts, or landings;

4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water, assuming summer, leaf-on conditions, whenever practical; and

6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas; provided, that the dimensional and performance standards of subsections C1 to C5 of this section are complied with in addition to the requirements of Minnesota regulations chapter 1340.

D. Significant Historic Sites: No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public repository.

E. Steep Slopes: The city engineer must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or their improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

4905.23.Height Of Structures: All structures in city residential districts, except churches and nonresidential agricultural structures, must not exceed twenty five feet (25') in height. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; Ord. 2003-36, 11-3-2003; 2005 Code)

4905.3: SHORELAND ALTERATIONS:
Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

4905.31.Vegetation Alterations:

A. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by section 4905.4 of this chapter are exempt from the vegetation alteration standards that follow.

B. Removal or alteration of vegetation, except for agricultural uses as regulated in section 4905.62 of this chapter is allowed subject to the following standards:

1.Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

2.In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access path, livestock watering areas, beach and watercraft access areas, and permitted water oriented accessory structures or facilities; provided, that:

a. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

b.Along rivers, existing shading of water surfaces is preserved; and

c.The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased, or pose safety hazards.

4905.32.Topographic Alterations/Grading And Filling:

A. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

B. Public roads and parking areas are regulated by section 4905.4 of this chapter.

C. Notwithstanding subsections A and B of this section, a grading and filling permit will be required for:

1.The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

2.The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

D. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

1.Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:

a.Sediment and pollutant trapping and retention;

b.Storage of surface runoff to prevent or reduce flood damage;

c.Fish and wildlife habitat;

d.Recreational use;

e. Shoreline or bank stabilization; and

f.Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota department of natural resources, or the United States army corps of engineers. The applicant will be so advised.

2.Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

3.Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

4.Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

5.Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States soil conservation service;

6. Fill or excavated material must not be placed in a manner that creates an unstable slope;

7.Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater;

8.Fill or excavated material must not be placed in bluff impact zones;

9.Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner of the state department of natural resources under Minnesota statutes section 103G.405;

10.Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

11.Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet (3') horizontal to one foot (1') vertical, the landward extent of the riprap is within ten feet (10') of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet (3').

E. Excavation where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner of the state department of natural resources has approved the proposed connection to public waters. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; 2005 Code)

4905.4: PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS, AND PARKING AREAS:
!!! 4905.41.Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

4905.42.Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impact.

4905.43.Public and private watercraft access ramps, approach roads, and access related parking areas may be placed within shore impact zones, provided the vegetative screening and erosion control conditions of this section are met. For private facilities, the grading and filling provisions of section 4905.32 of this chapter must be met. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4905.5: STORMWATER MANAGEMENT:
The following general and specific standards shall apply:

4905.51.General Standards:

A. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

4905.52.Specific Standards:

A. Impervious surface coverage of lots must not exceed twenty five percent (25%) of the lot area.

B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

C. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4905.6: SPECIAL PROVISIONS FOR COMMERCIAL, INDUSTRIAL, PUBLIC/SEMIPUBLIC, AGRICULTURAL, AND EXTRACTIVE USES AND MINING OF METALLIC MINERALS AND PEAT:

!!! 4905.61.Standards For Commercial, Industrial, Public And Semipublic Uses:

A. Surface water oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water oriented needs must meet the following standards:

1.In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

2.Uses that require short term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

3.Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

a.No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;

b.Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet (10') above the ground, and must not exceed thirty two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

c.Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

B. Uses without water oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

C. For developments within the shoreland overlay district with an underlying business (B) zoning designation, lot coverage may exceed twenty five percent (25%) and be up to eighty percent (80%), subject to the following criteria:

1.The lot is served by municipal sewer and water.

2.A conditional use permit (CUP) application is submitted and approved as provided for in chapter 400 of this ordinance.

3.Notice of requests to exceed twenty five percent (25%) lot coverage shall be sent to the department of natural resources for their review and comment.

4.The lot meets or exceeds the minimum lot size and dimensions requirements.

5.The building setback is at least one hundred fifty feet (150') from the OHW, and the height of buildings on riparian lots or the first tier of a PUD shall not exceed twenty five feet (25'). Buildings on nonriparian lots or beyond the first tier of a PUD shall comply with the height restrictions of the base zoning district.

6.As part of the CUP process and site and building plan review, plans for structures, parking areas, and other facilities shall be reviewed for their effort to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, and color, assuming summer, leaf-on conditions. Vegetative and topographic screening shall be preserved, if existing, or may be required to be provided.

7.Parking lot lighting shall be provided in a manner so that all light is downcast with special attention paid to eliminating glare and minimizing the number and height of poles.

8.Declaration of covenants, restrictions, and easements shall be provided on individual developments to protect the land adjacent to the water body.

9.A buffer of forty feet (40') is maintained adjacent to the lake where only ponding, wetland replacement and native planting will be permitted. An additional sixty feet (60') of open space (total 100 feet) shall be provided adjacent to the forty foot (40') buffer. Passive recreational activities such as trails or picnicking or ponding, wetland replacement or plantings may occur in the sixty feet (60') of open space.

10.On riparian lots, a detailed planting plan is submitted that enhances the buffer area by providing native species as a supplement to existing vegetation.

11.Collection and treatment of stormwater runoff prior to discharge to public waters shall be designed and implemented consistent with the city's stormwater management regulations as set forth in the city's subdivision ordinance [1] .

12.If a site exceeds fifty percent (50%) lot coverage and the use is a nonwater oriented structure, then one of the following must be met:

a.All buildings must be set back at least three hundred feet (300'); or

b.Reduce the effective lot coverage below fifty percent (50%). This provision will require demonstration that sufficient low impact development (LID) practices will be implemented in a location(s) on the lot or parcel to capture and treat runoff from the impervious areas above the fifty percent (50%) threshold for a one-half inch (0.5") design storm (type II, 24-hour, AMC-2). A city provided worksheet must be completed to demonstrate compliance with this provision. LID practices may include, but are not limited to, the following:

(1)Vegetated swales;

(2)Rainwater gardens;

(3)Depressional storage/infiltration areas;

(4)Infiltration trenches or basins;

(5)Permeable pavement;

(6)Bioretention areas;

(7)Grassed filter strips;

(8)Sand filters;

(9)Cisterns or dry wells; and

(10)Other practices not listed above or that may become known after the effective date hereof.

4905.62.Agriculture Use Standards:

A. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shores and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States soil conservation service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty feet (50') from the ordinary high water level.

B. Animal feedlots must meet the following standards:

1.New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred feet (300') from the ordinary high water level of all public water basins; and

2.Modifications or expansions to existing feedlots that are located within three hundred feet (300') of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

4905.63.Extractive Use Standards:

A. Site Development And Restoration Plan: An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

B. Setbacks For Processing Machinery: Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

4905.64.Mining Of Metallic Minerals And Peat: Mining of metallic minerals and peat, as defined in Minnesota statutes sections 93.44 to 93.51, shall be a permitted use, provided the provisions of Minnesota statutes sections 93.44 to 93.51 are satisfied. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; Ord. 2002-14, 8-5-2002; Ord. 2004-03, 1-5-2004)

Notes

[1] 1. See section 11-7-12 of the city code.

4905.7: CONDITIONAL USES:
Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established communitywide. The following additional criteria and conditions apply within shoreland areas:

4905.71.Evaluation Criteria: A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:

A. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

B. The visibility of structures and other facilities as viewed from public waters is limited;

C. The site is adequate for water supply and on site sewage treatment; and

D. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

4905.72. Conditions Attached To Conditional Use Permits: The city, upon consideration of the criteria listed above and the purposes of this chapter, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

A. Increased setbacks from the ordinary high water level;

B. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

C. Special provisions for the location, design, and use of structures, sewage treatment system, watercraft launching and docking areas, and vehicle parking areas. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4905.8: WATER SUPPLY AND SEWAGE TREATMENT:
!!! 4905.81.Water Supply: Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota department of health and the Minnesota pollution control agency.

4905.82.Sewage Treatment: Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

A. Publicly owned sewer systems must be used where available.

B. All private sewage treatment systems must meet or exceed the Minnesota pollution control agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be part of this chapter [1] .

C. On site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in section 4905.21 of this chapter.

D. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsections D1 through D4 of this section. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on site field inspections.

Evaluation criteria:

1.Depth to the highest known or calculated ground water table or bedrock.

2.Soil conditions, properties, and permeability.

3.Slope.

4.The existence of lowlands, local surface depressions, and rock outcrops.

E. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 4906.3 of this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

Notes

1 1. See also section 1000.16 of this ordinance; title 9, chapters 3 and 4 of the city code.

4906.0: NONCONFORMITIES:
All legally established nonconformities, as of the effective date hereof, may continue, but they will be managed according to applicable state statutes and other regulations of the city for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except, that the following standards will also apply in shoreland areas.

4906.1: CONSTRUCTION ON NONCONFORMING LOTS OF RECORD:
A. Lots of record in the office of the county recorded on the date of enactment of local shoreland controls that do not meet the requirements of section 4905.1 of this chapter may be allowed as building sites without variances from lot size requirements, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.

B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment and appeals shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

C. If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of section 4905.1 of this chapter, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of section 4905.1 of this chapter as much as possible. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; 2005 Code)

4906.2: ADDITIONS/EXPANSIONS TO NONCONFORMING STRUCTURES:
A. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of section 4905.0 of this chapter. Any deviation from these requirements must be authorized by a variance pursuant to section 4903.3 of this chapter.

B. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:

1. The structure existed on the date the structure setbacks were established;

2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

3. The deck encroachment toward the ordinary high water level does not exceed fifteen percent (15%) of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty feet (30'), whichever is more restrictive; and

4. The deck is constructed primarily of wood and is not roofed or screened. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4906.3: NONCONFORMING SEWAGE TREATMENT SYSTEMS:
A. A sewage treatment system not meeting the requirements of section 4905.8 of this chapter must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purpose of this subsection, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

B. The city council has, by formal resolution, notified the commissioner of the department of natural resources of its program to identify nonconforming sewage treatment systems. The city will require upgrading or replacement of any nonconforming system identified by this program within a reasonable time which will not exceed two (2) years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota statutes section 103F.201 et seq., in effect at the time of installation, may be considered as conforming unless they are determined to be failing; except, that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above ground water than required by the Minnesota pollution control agency's chapter 7080 for design of on site sewage treatment systems, shall be considered nonconforming. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; 2005 Code)

4907.0: SUBDIVISION/PLATTING PROVISIONS:

4907.1: LAND SUITABILITY:
Each lot created through subdivision, including planned unit developments authorized under section 4908.0 of this chapter, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city council shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the city. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4907.2: CONSISTENCY WITH OTHER CONTROLS:
Subdivisions must conform to all official controls of the city. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless a domestic water supply is available and a sewage treatment system consistent with sections 4905.2 and 4905.8 of this chapter can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of section 4905.1 of this chapter, including, at least, a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks must not be approved. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4907.3: INFORMATION REQUIREMENTS:
Sufficient information must be submitted by the applicant for the city to make a determination of land suitability. The information shall include at least the following:

A. Topographic contours at ten foot (10') intervals or less from United States geological survey maps or more accurate sources, showing limiting site characteristics;

B. The surface water features required in Minnesota statutes section 505.02, subdivision 1, to be shown on plats, obtained from United States geological survey quadrangle topographic maps or more accurate sources;

C. Adequate soils information to determine suitability for building and on site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depth, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

E. Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and

F. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4907.4: DEDICATIONS:
When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4907.5: PLATTING:

All subdivisions that create five (5) or more lots or parcels that are two and one-half ($2^1/_2$) acres or less in size shall be processed as a plat in accordance with Minnesota statutes chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4907.6: CONTROLLED ACCESS OR RECREATIONAL LOTS:
Lots intended as controlled accesses to public water or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in section 4905.13 of this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4908.0: PLANNED UNIT DEVELOPMENTS (PUDs):

4908.1: TYPES OF PUDs PERMISSIBLE:
Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in section 4904.2 of this chapter and the official zoning map. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4908.2: PROCESSING OF PUDs:
Planned unit developments must be processed as a conditional use; except, that an expansion to an existing commercial PUD involving six (6) or less new dwelling units or sites since the effective date hereof is permissible as a permitted use, provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in section 4908.5 of this chapter. Approval cannot occur until the environmental review process (EAW/EIS) is complete. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4908.3: APPLICATION FOR A PUD:
The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

4908.31.A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten foot (10') intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two (2).

4908.32.A property owners' associations' agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of section 4908.6 of this chapter.

4908.33.Deed restrictions, covenants, permanent easements or other instruments that: a) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and b) ensure the long term preservation and maintenance of open space in accordance with the criteria and analysis specified in section 4908.6 of this chapter.

4908.34.When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.

4908.35.Those additional documents as requested by the city that are necessary to explain how the PUD will be designed and will function. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4908.4: SITE SUITABLE AREA EVALUATION:
Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in section 4908.5 of this chapter.

4908.41.The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

	Shoreland Tier Dimensions	
Natural environment lakes	Unsewered (Feet)	Sewered (Feet)
	400	320

4908.42.The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4908.5: RESIDENTIAL AND COMMERCIAL PUD DENSITY EVALUATION:

The procedures for determining the "base" density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.

4908.51.Residential PUD "Base" Density Evaluation: The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the city council has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in section 4908.6 of this chapter.

4908.52. Commercial PUD "Base" Density Evaluation:

A. Determine the average inside living area of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages or porches and basements, unless they are habitable space.

B. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development

Floor Area Ratios*

Public Waters Classes

*Average Unit Floor Area (Square Feet)	Natural Environment Lakes
200	0.010
300	0.012
400	0.014
500	0.016
600	0.019
700	0.021
800	0.023
900	0.025
1,000	0.027
1,100	0.029
1,200	0.032
1,300	0.034
1,400	0.036
1,500	0.038

*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet.

Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

C. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

D. Divide the total floor area by the tier computed in subsection C of this section by the average inside living area size determined in subsection A of this section. This yields a base number of dwelling units and sites for each tier.

E. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in section 4908.6 of this chapter.

4908.53.Density Increase Multipliers:

A. Allowable Increase If Standards Met: Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in section 4905.0 of this chapter are met or exceeded and the design criteria in section 4908.6 of this chapter are satisfied. The allowable density increases in subsection B of this section will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty percent (50%) greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the city council and the setback is at least twenty five percent (25%) greater than the minimum setback.

B. Allowable Dwelling Unit Or Dwelling Site Density Increases For Residential Or Commercial Planned Unit Developments:

Density Evaluation Tiers	Maximum Density Increase Within Each Tier (Percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4908.6: MAINTENANCE AND DESIGN CRITERIA:

!!! 4908.61.Maintenance And Administration Requirements:

A. Preservation And Maintenance Required: Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

B. Open Space Preservation: Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long term preservation and maintenance of open space. The instruments must include all of the following protections:

1. Commercial uses prohibited (for residential PUDs);

2. Vegetation and topographic alterations other than routine maintenance prohibited;

3. Construction of additional buildings or storage of vehicles and other materials prohibited; and

4. Uncontrolled beaching or watercraft prohibited.

C. Development Organization And Functioning: Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners' association with the following features:

1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;

3. Assessments must be adjustable to accommodate changing conditions; and

4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

4908.62. Open Space Requirements: Planned unit developments must contain open space meeting all of the following criteria:

A. At least fifty percent (50%) of the total project area must be preserved as open space.

B. Dwelling units or sites, road rights of way, or land covered by road surfaces, parking areas, or structures, except water oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;

C. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;

D. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;

E. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;

F. Open space must not include commercial facilities or uses, but may contain water oriented accessory structures or facilities.

G. The appearance of open space area, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and

H. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least fifty percent (50%) of the shore impact zone area of existing developments or at least seventy percent (70%) of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least fifty percent (50%) of the shore impact zone must be preserved in its natural state.

4908.63.Erosion Control And Stormwater Management: Erosion control and stormwater management plans must be developed, and the PUD must:

A. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

B. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed twenty five percent (25%) of the tier area.

4908.64.Centralization And Design Of Facilities: Centralization and design of facilities and structures must be done according to the following standards:

A. Planned unit development must be connected to publicly owned water supply and sewer systems, if available. On site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota department of health and sections 4905.2 and 4905.8 of this chapter. On site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn areas free of limiting factors must be provided for a replacement soil treatment system for each sewage system;

B. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with section 4908.53 of this chapter for developments with density increases;

C. Shore recreation facilities, including, but not limited to, swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to ground water and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

D. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the city council, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

E. Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and

F. Water oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in section 4905.2 of this chapter and are centralized. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993)

4908.7: CONVERSIONS:
The city may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

4908.71.Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

4908.72.Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

4908.73.Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

A. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

B. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

C. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

4908.74.Existing dwelling unit or dwelling site densities that exceed the standards in section 4908.5 of this chapter may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

4908.75.The city may waive the shoreland provision for planned unit developments (section 4908.0 of this chapter) in cases where the city approves a request to process an application as a standard PUD/CUP under this ordinance. This shall mean flexibility in lot width, lot sizes, setbacks, etc., subject to the criteria outlined below. The city may only approve a request pursuant to this chapter if all of the following site and design criteria are met:

A. Minimum project areas shall be as follows:

Residential: Ten (10) acres

Commercial: Two (2) acres

B. The total density of the site shall not exceed that which is permitted by the underlying zoning.

C. Individual lot coverage by impervious surfaces shall not exceed thirty percent (30%).

D. At least fifty percent (50%) of the project area shall be preserved as open space, public or private. Open space shall meet all the requirements of section 4908.62 of this chapter and shall not include roads, sidewalks, parking areas or building footprint areas. At least one-half ($^1/_2$) of the preserved open space required by this chapter must be in tier 1 of the shoreland area defined in section 4908.41 of this chapter.

E. Density may be transferred among the tiers and/or structure and parking setbacks may be reduced to a minimum of seventy five feet (75') from the ordinary high water level; provided, that all of the following mitigating measures are completed:

1. A natural undisturbed vegetative buffer at least thirty feet (30') in width is maintained adjacent to the wetland/water's edge of OHW, whichever extends further landward.

2. A planting plan be designed and implemented that enhances or restores the natural buffer with a combination of grasses, shrubs, and trees appropriate to complement the natural habitat.

3. Permanent markers shall be installed and maintained indicating the buffer edge along the entire shoreland boundary.

4. A homeowners' association document shall be created and recorded that includes provisions for maintenance of the shoreland markers, prohibits the use of fertilizers containing phosphorous in rear yards, and that provides a mandatory penalty for violations of the homeowners' association and provisions of this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 1993-2, 3-15-1993; Ord. 2001-1, 4-16-2001)

CHAPTER 5000

W WETLAND OVERLAY SYSTEMS DISTRICT

SECTION:

5000.1: Purpose

5000.2: Incorporation By Reference

5000.3: Identification And Delineation Of Wetlands

5000.4: General Standards

5000.5: Wetland Buffer Strips And Setbacks

5000.6: Wetland Buffer Demarcation Signs Required

5000.7: Buffer Strip Vegetation Performance Standards

5000.1: PURPOSE:
The purpose of the wetland overlay systems district is to implement the wetland conservation act of 1991 (Minnesota laws, 1991, chapter 354, as amended, supplemented or replaced from time to time) (codified, as amended, at Minnesota statutes sections 103G.222 to 103G.2373 and in other scattered sections) ("WCA") and the accompanying rules of the Minnesota board of water and soil resources (Minnesota rules chapter 8420, as amended, supplemented or replaced from time to time) ("rules"). (Ord. 1988-12, 12-19-1988; amd. Ord. 2004-04, 3-15-2004; 2005 Code)

5000.2: INCORPORATION BY REFERENCE:
This chapter incorporates by reference the wetland conservation act of 1991 (Minnesota laws, 1991, chapter 354, as amended, supplemented or replaced from time to time) (codified, as amended, at Minnesota statutes sections 103G.222 to 103G.2373 and in other scattered sections) and the accompanying rules of the Minnesota board of water and soil resources (Minnesota rules chapter 8420, as amended, supplemented or replaced from time to time). Terms used in this chapter which are defined in the WCA or the rules shall have the meanings assigned to them therein. (Ord.

1988-12, 12-19-1988; amd. Ord. 2004-04, 3-15-2004)

5000.3: IDENTIFICATION AND DELINEATION OF WETLANDS:

A. This chapter shall apply to all land containing wetlands and land within the setback and buffer areas required by this chapter. Wetlands shall be subject to the requirements established herein, as well as restrictions and requirements established by other applicable federal, state, and city ordinances and regulations. These wetland protection regulations shall not be construed to allow anything otherwise prohibited in the zoning district where the wetland area is located.

B. A "wetland" is land that meets the definition of "wetlands" set forth in the WCA. The presence or absence of a wetland on the national wetlands inventory map does not represent a definitive determination as to whether a wetland covered by this chapter is or is not present. Wetlands that are identified during site specific delineation activities but do not appear on the official national wetlands inventory map are still subject to the provisions of this chapter. It will be the responsibility of an applicant to delineate the exact wetland boundary or to determine that no wetland exists on a subject property. All delineations must be reviewed and approved by the city. If an applicant questions whether a wetland exists or disputes its classification, the applicant shall have the burden to supply detailed information for review supporting the applicant's assertion, including, but not limited to, topographic, hydrologic, floristic and/or soil data deemed necessary by the city to determine the jurisdictional status of the wetland, its exact boundary and its classification. Wetland delineations supplied by applicants shall be certified by a qualified wetland delineator. Wetland delineators must satisfy any certification requirements that may be established by the U.S. army corps of engineers or the Minnesota board of water and soil resources.

C. Only that portion of a property within the boundaries of a wetland shall be subject to the provisions of this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 2004-04, 3-15-2004)

5000.4: GENERAL STANDARDS:

The following standards apply to all lands within and/or abutting a wetland:

A. Structure elevations shall meet the criteria in subsection 1000.9D and subsection 4905.22 of this ordinance.

B. Structures intended to provide access across a wetland shall be prohibited unless a permit is obtained in conformance with state and federal regulations.

C. The MPCA's best management practices shall be followed to avoid erosion and sedimentation during the construction process.

D. Before the city issues a building permit for a lot with a required wetland buffer, the lot owner shall:

1. Record a notice of the wetland buffer requirement against the title to the lot with the office of the Wright County recorder or registrar of titles; and

2. Install the wetland buffer signs required by this chapter. (Ord. 1988-12, 12-19-1988; amd. Ord. 2004-04, 3-15-2004; Ord. 2004-19, 12-20-2004; Ord. 2009-009, 3-2-2009)

5000.5: WETLAND BUFFER STRIPS AND SETBACKS:

A. For lots of record created after July 20, 2000, a buffer strip shall be maintained abutting all wetlands. The setback and buffer provisions of this chapter shall not apply to lots of record created prior to July 20, 2000. The city does, however, strongly encourage the use of a wetland buffer and setback on all lots in the city.

B. Thirty foot (30') wetland buffer strips and structure setbacks shall apply to all parcels of land whether or not the wetland is on the same parcel as a proposed development.

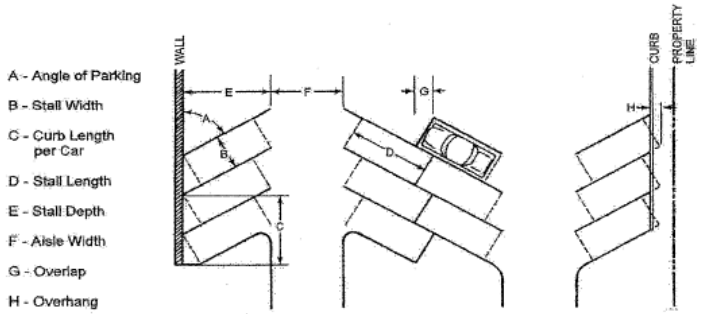
C. Buffer strip vegetation shall be established and maintained in accordance with the requirements found in this chapter. During the first two (2) years, any buffer vegetation that does not survive must be replanted. After two (2) years, if the condition of the buffer area changes through natural processes not caused by the property owner, the owner shall not be required to reestablish the buffer area to meet the standards of this chapter. Buffer strips shall be identified within each lot by permanent monuments approved by the city.

D. For roadways that must be aligned either adjacent to or across wetlands and are subject to WCA replacement requirements, additional wetland filling to create a buffer strip shall not be required. Trails that are intended to serve an interpretive function may also be exempted from the buffer requirement. All other roadways and trails shall meet the setbacks and buffer standards established below.

E. The use of a meandering buffer strip to maintain a natural appearance is encouraged but not required in areas of flat topography.

F. The thirty foot (30') buffer width and setback shall apply to structures, roadways and trails in all zoning districts.

G. Example of buffer applied to a wetland:



Also see wetland buffer insert attached to ordinance 2004-04. (Ord. 1988-12, 12-19-1988; amd. Ord. 2004-04, 3-15-2004)

5000.6: WETLAND BUFFER DEMARCATION SIGNS REQUIRED:

Wetland buffer signs are required at each lot line where it crosses a wetland buffer with a maximum spacing of two hundred feet (200') between signs at the wetland edge. Wetland buffer signs shall be mounted to a height of four feet (4') above grade and set at least forty two inches (42") into the ground. Wetland buffer signs shall be mounted on four inch by four inch (4"x4") treated wood posts flush with the top of the posts and fastened with nonremovable screws. Such posts shall be installed to a height of four feet (4') above grade and set at least forty two inches (42") into the ground. (Ord. 1988-12, 12-19-1988; amd. Ord. 2004-04, 3-15-2004)

5000.7: BUFFER STRIP VEGETATION PERFORMANCE STANDARDS:

A. Buffer strips shall be maintained with native plant material and shall not be mowed, cut or disturbed but left in a natural state.

B. If a buffer strip is disturbed, it shall be restored to its previous state with approved seed mixture comparable to MnDOT spec. 3876.2 - mix number 5A at a rate of forty (40) pounds per acre. (Ord. 1988-12, 12-19-1988; amd. Ord. 2004-04, 3-15-2004)

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CHAPTER 5100

FP FLOOD REGULATIONS

SECTION:

5100.1: Purpose

5100.2: Definitions

5100.3: Permit Requirements

5100.4: Permit Application

5100.5: Duties Of The Zoning Administrator

5100.6: Review Of Permit Application

5100.7: Review Of Subdivision Proposals

5100.8: Water Supply System

5100.9: Sanitary Sewage And Waste Disposal Systems

5100.10: Penalty

5100.11: Abrogation And Greater Restriction

5100.1: PURPOSE:

The purpose of this chapter is to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and to establish eligibility in the national flood insurance program, and in order to do so, must meet the requirements of 44 CFR part 60.3(a). The legislature of the state of Minnesota has in Minnesota statutes chapters 103F and 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses; and in order to determine which developments would increase the flood hazard or be damaged by flooding, does ordain the following measures within the jurisdictional limits of this community. (Ord. 2011-007, 7-5-2011)

5100.2: DEFINITIONS:

The following words and terms, wherever they occur in this chapter, shall be interpreted as herein defined:

DEVELOPMENT: Any manmade change to real estate, including, but not limited to, construction or reconstruction of buildings, installing manufactured homes or travel trailers, installing utilities, construction of roads or bridges, erection of levees, walls, or fences, drilling, mining, filling, dredging, and storage of materials.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of Flood).

FLOODPROOFING: Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities.

NEW CONSTRUCTION: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

PERSON: Includes any individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

STRUCTURE: For floodplain management purposes, a walled and roofed building, including gas or liquid storage tanks, that is principally aboveground. The term includes recreational vehicles and travel trailers on site for more than one hundred eighty (180) days.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either: a) before the improvement or repair is started, or b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure regardless of the actual work performed. The term does not, however, include either: a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or b) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a historic structure. (Ord. 2011-007, 7-5-2011)

5100.3: PERMIT REQUIREMENTS:

A. No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate building permit for each building or structure from the building official.

B. No manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit, as per this ordinance, has been obtained from the zoning administrator.

C. No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each manufactured home from the zoning administrator. (Ord. 2011-007, 7-5-2011)

5100.4: PERMIT APPLICATION:
To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the zoning administrator with a fee established by city ordinance before the issuance of a permit will be considered. (Ord. 2011-007, 7-5-2011)

5100.5: DUTIES OF THE ZONING ADMINISTRATOR:
A. The zoning administrator is appointed as the "person" responsible for receiving applications and examining the plans and specifications for the proposed construction or development.

B. After reviewing the application, the zoning administrator may require any additional measures which are necessary to meet the minimum requirements of this chapter.

C. The zoning administrator shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the federal water pollution control act amendments of 1972, 33 USC 1334. (Ord. 2011-007, 7-5-2011)

5100.6: REVIEW OF PERMIT APPLICATION:
The zoning administrator, city engineer, and city planner shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall be:

A. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,

B. Constructed with materials and utility equipment resistant to flood damage,

C. Constructed by methods and practices that minimize flood damage, and

D. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

E. Buildings shall maintain the proper foundation, garage, and building elevation of subsections 1000.9C and D of this ordinance. (Ord. 2011-007, 7-5-2011)

5100.7: REVIEW OF SUBDIVISION PROPOSALS:
The zoning administrator, city engineer, and city planner shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal shall be reviewed to assure that:

A. All such proposals are consistent with the need to minimize flood damage within the flood prone area,

B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

C. Adequate drainage is provided to reduce exposure of flood hazard. (Ord. 2011-007, 7-5-2011)

5100.8: WATER SUPPLY SYSTEM:
All properties shall be connected to municipal water per title 9, chapter 2 of the city code. (Ord. 2011-007, 7-5-2011)

5100.9: SANITARY SEWAGE AND WASTE DISPOSAL SYSTEMS:
All properties shall be connected to municipal sanitary sewer per section 9-3-4 of the city code. (Ord. 2011-007, 7-5-2011)

5100.10: PENALTY:
Any person who violates any of the provisions of this chapter shall be found guilty of a misdemeanor and shall, upon conviction, be subject to a fine as established in section 3-1-3 of the city code. Each day that a violation exists shall constitute a separate offense. (Ord. 2011-007, 7-5-2011; amd. Ord. 2017-01, 1-3-2017)

5100.11: ABROGATION AND GREATER RESTRICTION:
A. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restriction.

B. Where this chapter and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2011-007, 7-5-2011)

CHAPTER 5200

PUD PLANNED UNIT DEVELOPMENT DISTRICTS

SECTION:

5200.1: Purpose

5200.2: Albertvillas 1st Addition, 2nd Addition, 3rd Addition

5200.3: Albertvillas 4th Addition, 5th Addition, 6th Addition

5200.4: Albertville Medical Clinic

5200.5: Albertville Self-Storage

5200.6: Cedar Creek Golf Course

5200.7: Cedar Creek North 1st Addition, 2nd Addition, 3rd Addition

5200.8: Cedar Creek South 1st Addition - 5th Addition

5200.9: Cedar Creek South 6th Addition

5200.10: Cedar Creek South 7th Addition

5200.11: Center Oaks

5200.12: Center Oaks 2nd Addition

5200.13: Center Oaks 3rd Addition And 4th Addition

5200.14: Federated Co-ops

5200.15: Fehn Property

5200.16: Hunters Pass Estates

5200.17: Hunters Pass Estates 2nd Addition

5200.18: Hunters Pass 3rd Addition

5200.19: Kingston Crossing

5200.20: Marketplace

5200.21: Outlets At Albertville (East And West)

5200.22: Parkside Commercial Center

5200.23: Parkside 3rd Addition And 4th Addition

5200.24: Particle Control

5200.25: Prairie Run

5200.26: Preserves At Albertville

5200.27: Shoppes At Prairie Run

5200.28: Shoppes At Towne Lakes One

5200.29: Shoppes At Towne Lakes Two

5200.30: Towne Lakes 1st Addition And 2nd Addition

5200.31: Towne Lakes 3rd Addition

5200.32: Towne Lakes 4th Addition

5200.33: Towne Lakes 5th Addition

5200.34: Towne Lakes 6th Addition

5200.35: Towne Lakes 7th Addition

5200.36: Westwind 2nd Addition

5200.37: Westwind 3rd Addition

5200.38: 6737 Labeaux Avenue

5200.1: PURPOSE:
The summary is to memorialize the approved land uses and performance standard for each Planned Unit Development Zoning District within the City of Albertville, for easy reference and administration. (Ord. 2023-05, 5-15-2023)

5200.2: ALBERTVILLAS 1ST ADDITION, 2ND ADDITION, 3RD ADDITION:
A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the R-1A zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	25 feet	12,500 sq. feet	85 feet

PUD periphery:	35 feet
Wetland setback:	20 feet from ordinary high water mark

C. Special PUD Conditions:

Lot area:	12,500 square feet
Lot width:	85 feet

(Ord. 2023-05, 5-15-2023)

5200.3: ALBERTVILLAS 4TH ADDITION, 5TH ADDITION, 6TH ADDITION:
A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the R-1A zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	15 feet	20 feet	25 feet	15,000 sq. feet	90 feet

PUD periphery:	35 feet

C. Special PUD Conditions:

Lot width:	90 feet

(Ord. 2023-05, 5-15-2023)

5200.4: ALBERTVILLE MEDICAL CLINIC:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the B-2 zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	35 feet	10 feet	20 feet	20 feet	10,000 sq. feet	100 feet

Building placement per development contract plan set dated 03/14/2006.	
Principal building/structure height:	Thirty five feet (35').
Maximum site coverage:	Hard surface, including buildings, eighty percent (80%).

C. Special PUD Conditions: Cross-parking and access easement which will allow mutual cross-parking and access between Lot 1, Block 1 in Said Plat and Lot 2, Block 1, Albertville Medical Building. (Ord. 2023-05, 5-15-2023)

5200.5: ALBERTVILLE SELF-STORAGE:

A. Uses: Self storage per plan set dated July 12, 2022 with special PUD conditions outlined below.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	20 feet	-	100 feet

1. Building A located on said Lot 1 as shown on the Plans and Specifications for AVA Second Addition, as prepared by Landform dated July 12, 2022 may be set back no less than eight feet (8') from the interior side yard property line.

2. All buildings on Lot 1, Block 1 shall be constructed in the locations shown on the Plans and Specifications for AVA Second Addition, as prepared by Landform dated July 12, 2022 unless otherwise approved by motion of the City Council.

3. The Plat shall be consistent with the Plans and Specifications for AVA Second Addition, as prepared by Landform dated July 12, 2022.

C. Special PUD Conditions:

1. All leases for storage on said Lot 1 must prohibit the following:

a. Prohibited Storage:

(1) Explosives;

(2) Hazardous materials;

(3) Toxic materials;

(4) Flammable materials such as fuels and accelerants;

(5) Materials that are subject to spoilage or deterioration.

b. Prohibited Uses Of The Storage Bays:

(1) Residential living;

(2) Housing of animals;

(3) Conducting a business;

(4) Manufacturing or assembly of products. (Ord. 2023-05, 5-15-2023)

5200.6: CEDAR CREEK GOLF COURSE:

A. Uses: Golf course per plan set dated November 17, 1997 and per the Cedar Creek Golf Course Planned Unit Development Concept Plan Master Agreement recorded as document number 653050 at the Wright County Recorder's Office, Wright County, Minnesota.

B. Lot Requirements And Setbacks:

C. Special PUD Conditions: Per plans dated November 17, 1997 and per the Cedar Creek Golf Course Planned Unit Development Concept Plan Master Agreement recorded as document number 653050 at the Wright County Recorder's Office, Wright County, Minnesota. (Ord. 2023-05, 5-15-2023)

5200.7: CEDAR CREEK NORTH 1ST ADDITION, 2ND ADDITION, 3RD ADDITION:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the R-1A zoning district defined in this

ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	25 feet	15,000 sq. feet	80 feet

C. Special PUD Conditions:

Lot width:	80 feet
Maximum 25% lot coverage	
Maximum building height:	35 feet

(Ord. 2023-05, 5-15-2023)

5200.8: CEDAR CREEK SOUTH 1ST ADDITION - 5TH ADDITION:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the R-1A zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	25 feet	12,500 sq. feet	80 feet

C. Special PUD Conditions:

Lot area:	12,500 square feet
Lot width:	80 feet
Maximum 25% lot coverage	

(Ord. 2023-05, 5-15-2023)

5200.9: CEDAR CREEK SOUTH 6TH ADDITION:

A. Uses: All detached townhomes plan set dated October 5, 2000.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	20 feet	6 feet	-	15 feet	5,000 sq. feet/unit	-

Minimum setback from CSAH 18:	35 feet
22 feet from internal private streets	
20 feet from other parcel boundary lines	
Building separation:	12 feet

C. Special PUD Conditions: Building placement per plans dated October 5, 2000. (Ord. 2023-05, 5-15-2023)

5200.10: CEDAR CREEK SOUTH 7TH ADDITION:

A. Uses: All detached townhomes plan set dated July 30, 2001.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	-	-	-	-	5,000 sq. feet/unit	-

Building separation:	9 feet
25 feet setback from internal private street	
10 feet setback adjacent to golf course	

C. Special PUD Conditions:

Building placement per plans dated July 30, 2001 and revised September 7, 2001.

Detached accessory buildings prohibited. (Ord. 2023-05, 5-15-2023)

5200.11: CENTER OAKS:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the R-1A zoning district defined in this

ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	25 feet	12,500 sq. feet	75 feet

C. Special PUD Conditions:

Lot area:	12,500 square feet
Lot width:	75 feet

(Ord. 2023-05, 5-15-2023)

5200.12: CENTER OAKS 2ND ADDITION:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the R-1A zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	25 feet	12,500 feet	80 feet

C. Special PUD Conditions:

Lot area:	12,500 square feet
Lot width:	80 feet

(Ord. 2023-05, 5-15-2023)

5200.13: CENTER OAKS 3RD ADDITION AND 4TH ADDITION:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the R-1A zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	25 feet	15,000 sq. feet	75 feet

C. Special PUD Conditions:

Lot width:	75 feet

(Ord. 2023-05, 5-15-2023)

5200.14: FEDERATED CO-OPS:

A. Uses: All permitted conditional and accessory uses allowed within the B-3 Zoning District. Any change of use from existing conditions shall be processed through the appropriate development applications called for by the Albertville Zoning Ordinance.

Farm supply sales and associated storage including fertilizer (dry and liquid), animal feed, seed, fuel and oil and related products per the approved site plan dated May 7, 2013.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
B-3	35 feet	20 feet*	20 feet*	20 feet*	-	100 feet
*except not less than thirty five feet (35') when abutting an R district.						

C. Special PUD Conditions:

1. A zero lot line setback shall be allowed along north property lines of Blocks 1 and 2. Along all other property lines, a minimum ten foot (10') structure setback shall be maintained.

2. The height of new buildings and building additions shall not exceed thirty five feet (35') in height.

3. The following PUD standards shall apply:

a. Any and all permitted conditional and accessory uses allowed within the B-3 Zoning District shall meet the architectural standards of Section 4400.8 of the Albertville Zoning Ordinance.

b. Proposed and expanded site structures must comply with building finish material requirements of the B-3 District.

c. The color of new and expanded buildings shall match the color of the principal building.

d. Off-street parking areas, related drive lanes and outdoor storage areas may be surfaced in gravel.

4. Proposed fuel storage improvements/modifications shall meet all applicable requirements of the Minnesota Pollution Control Agency and City Building and Fire Codes.

5. The above ground tank meets all building and fire code requirements per the Summit evaluation report.

6. Alarm: Federated Co-Op/property owner will train their employees and have the direct dial to the police station if the monitor ever shows an issue. The alarm will go off if the tank gets hotter than one hundred degrees (100°).

7. Monitor: Federated Co-Op staff will allow the Fire Department to have access to their tank monitoring software via a mobile app. This app, which is now in use by Federated Co-Op, would allow the Fire Department to virtually "see" the tank levels and temperatures in each of the individual tanks. Access to this application would be limited to the Fire Chief's iPad and the Fire Department's Engine 11 iPad.

8. Federated Co-Op employees, and their transport staff, will be trained in the use of the aforementioned app and directed on when to call 9-1-1 should any tank show any level or temperature issues.

9. Security: Federated Co-Op will bring in additional gravel in the low spots and will anchor the fence in a manner that prevents trespass under the fence. The fence anchoring will be subject to the approval of City Staff.

10. Safety training: Federated Co-Op will donate money for some additional joint training of both the fire department and its employees in the establishment of an emergency management plan for the site.

11. Site Lighting: Federated Co-Op will install dusk/dawn lighting in the loading area to provide employees a safer loading environment. The dusk/dawn lighting will be a deterrent to site entry from outsiders. Lighting will be ninety degree (90°) cutoff light fixtures consistent with current requirements.

12. Federated Co-Op will install motion detectors on both gate areas that will activate additional lighting to deter entry or tampering. Lighting will be consistent with current City lighting requirements.

13. Electrical power will remain locked out during all non-business hours via a padlocked breaker box. Federated Co-ops will explore pass code/key code power options to provide additional protection.

14. Federated Co-Op will work with the Fire Department on finding a third party vendor to construct an Emergency Action Plan for the facility allowing both Federated Co-Op staff and the Fire Department to train under one, unified, plan. Federated Co-Op has indicated they would be willing to make a monetary donation to fund this process. Federated Co-Op shall bear the expense for the development of the Emergency Action plan specific to the site. The Action plan shall be completed within 6 months of the PUD approval.

15. Federated Co-Op will remove one of one thousand (1,000) gallon gasoline tanks from the property with the installation of the ten thousand (10,000) gallon gasoline storage tank.

16. Federated Co-Op will work with the Fire Department to secure extra firefighting foam to be used solely for any incidents at the Federated Co-Op facility. Currently our foam supply comes in five (5) gallon buckets, and is stored at the Fire Department. The Fire Department would be comfortable having one hundred (100) gallons of foam on hand for the Federated Co-Op facility. Federated Co-Op has indicated they would be open to purchasing foam for potential use at their facility.

17. The entire tank field shall be an interim use for the property and shall be removed from the site if the property changes ownership. Subsequent, land owners may pursue and PUD Amendment to retain the tank field subject to the tank field meeting all current building, fire, and zoning codes in place at the time of change in ownership and compliance with the conditions of this ordinance.

18. With this zoning amendment Federated Co-Op shall be limited to not more than seven (7) liquid fuel storage tank having a storage capacity greater than ten thousand (10,000) gallons and two (2) liquid fuel storage tanks not to exceeding one thousand (1,000) gallons storage capacity per the site plan approved on August 19, 2019 located on parcel PID# 101-500-012-131. Any additional storage tanks or site alterations for any of the Federated Co-Op holdings will require a separate PUD amendment. (Ord. 2023-05, 5-15-2023)

5200.15: FEHN PROPERTY:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the I-2 zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district, except for the following, which shall be permitted notwithstanding the provisions of the I-2 district:

Two (2) principal buildings shall be allowed on Lot 1, Block 1 of Said Plat, provided such buildings are constructed in accordance with the Site Plan and the Building Plan set dated December 23, 2020 revised March 15, 2021. Setbacks for such buildings shall be as shown on the Site Plan dated December 23, 2020 revised March 15, 2021.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	20 feet	-	100 feet

All buildings on said Lot 1 shall be constructed in the locations shown on the Site Plan dated December 23, 2020 revised March 15, 2021 unless otherwise approved by motion of the City Council.

The minimum lot area within the I-2 District shall be determined by the criteria for parking, loading, minimum yards and setback requirements and building coverage described for this district.

Maximum Site Coverage: Hard Surface, Including Buildings: Eighty five percent (85%).

Maximum building height shall not exceed forty five feet (45') except by conditional use permit.

C. Special PUD Conditions:

1. Outdoor storage of aggregate, sand, and soils (but not soils contaminated with hazardous substances) shall be permitted on Lot 2 of Said Plat, provided the following restrictions are complied with:

Lot 2, Block 1 of Said Plat shall not be further subdivided while it is being used for outdoor storage and crushing. If such Lot 2 is further subdivided, the outdoor storage and crushing operations shall no longer be permitted.

The use of said Lot 1 must be used for office/construction equipment storage and maintenance.

No stock piles shall be located within four hundred feet (400') of 1) the west property line, or 2) the Barthel Industrial Drive right-of-way. Stock piles shall not exceed thirty feet (30') in height.

A dust control plan for the stock piles which plan must be approved in writing by the City Engineer to prevent the creation of nuisance conditions.

On-site crushing of gravel, soil or concrete materials shall be limited to a two-week period between the dates of May 15 to June 15 of each year and a two-week period between the dates of October 15 to November 15 of each year. Applicant's crushing shall be limited to the hours of seven o'clock (7:00) A.M. to seven o'clock (7:00) P.M., Monday through Friday. Crushing on the weekend shall be prohibited. Crushing equipment shall be located east and south of the stock piles to help mitigate noise and vibration for properties to the west and north. Applicant shall implement reasonable directives of the City Engineer to mitigate nuisance issues of noise, vibration and dust.

If vibration from developer's crushing operations materially interferes with the manufacturing processes of the property adjacent to and to the north of the subject property, developer agrees to work with the City to implement methods to mitigate the vibration impacts on the adjoining property including but not limited to smaller crushing equipment and increased setback from the north property line for crushing operations.

2. The number of parking stalls in the locations and dimensions shown in the parking lots to the west and south of the proposed office building located on said Lot 1 as shown on the plan set dated December 23, 2020 revised March 15, 2021. In the event the City reasonably determines that more parking is required for the proper operation of the use located on Lot 1, the City may require, and developer shall construct, additional parking in an amount required by the City in the location shown to the east of the proposed shop/storage building located on said Lot 1 and the ten parking stalls shown to the west of the parking lot located west of the Office Building as shown on the plan set dated December 23, 2020 revised March 15, 2021. (Ord. 2023-05, 5-15-2023)

5200.16: HUNTERS PASS ESTATES:

A. Uses: Single family dwellings, permitted accessory use allowed in the R-1A Residential Low-Density Single Family zoning district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	Variable Not less than 30 feet	5/10 feet	20 feet	30 feet	Variable 7,852 - 26,863 sq. feet Average 13,837 sq. feet	**Variable 60 feet measured at the required front setback

C. Special PUD Conditions:

1. The Hunters Pass Estates lot sizes shall comply with the approved final plat.

2. The Hunters Pass Estates is an approved coved design. Lot width is measured at the required front setback line. See the Hunters Pass Estates Phase 1 required front yard setbacks summary.

Hunter's Pass Estates-Phase I

Minimum Lot Setback Summary

Minimum Setbacks are as follows: Front-30, Rear-30, Garage Side-5, Home Side-10

(All dimensions are in feet, N-North, S-South, E-East, W-West, C-Center)

	Minimum Front Setback	Direction of Front Face of Home	Side of Lot for Garage and Drive
	Minimum Front Setback	Direction of Front Face of Home	Side of Lot for Garage and Drive
Block 1			
Lot 1	30	E	S
Lot 2	30	E	N
Lot 3	30	SE	N
Lot 4	30	SW	E
Block 2			
Lot 1	70	W	S
Lot 2	30	W	S
Lot 3	30	W	N
Lot 4	45	W	N
Lot 5	75	SW	N
Lot 6	30	SW	N
Lot 7	30	SE	N
Lot 8	30	E	N
Lot 9	38	NE	N
Lot 10	38	E	N
Lot 11	45	E	S
Lot 12	45	SE	C
Lot 13	65	S	C
Lot 14	55	SW	C
Lot 15	45	SW	C
Lot 16	32	W	S
Lot 17	32	NW	N

Lot 18	42	W	N
Lot 19	46	W	N
Block 3			
Lot 1	30	S	W
Lot 2	30	SW	E
Lot 3	30	SW	E
Lot 4	30	SW	E
Lot 5	30	SW	N
Lot 6	30	W	N
Lot 7	35	NW	N
Lot 8	65	NW	W
Lot 9	140	NW	W
Block 4			
Lot 1	67	E	N
Lot 2	60	E	N
Lot 3	58	E	N
Lot 4	58	E	N
Lot 5	57	E	S
Lot 6	48	E	S
Lot 7	42	NE	N
Lot 8	30	NE	W
Lot 9	30	NE	W
Lot 10	30	NE	E
	(Lot 10 has 30 side setback on west side)		
Block 5			
Lot 1	30	W	C
	(Lot 1 has 30 side setback on west side)		
Block 6			
Lot 1	50	W	S
Lot 2	50	NW	S
Lot 3	60	W	S
Lot 4	35	W	S
Lot 5	30	W	S
Lot 6	30	NW	E
Lot 7	30	N	W
Lot 8	30	NE	S
Lot 9	30	NE	S
Lot 10	30	E	S
Lot 11	31	SE	S
Lot 12	32	SE	S
Lot 13	35	SE	S
Lot 14	30	E	S
Lot 15	35	E	S
Lot 16	36	E	N
Lot 17	43	E	N
Lot 18	50	E	N
Lot 19	40	SE	N
Lot 20	32	SE	N
Lot 21	30	E	N
Lot 22	30	NE	W

3. Five foot (5') side yard setback garage side/ten foot (10') side yard setback on the side for living space.
4. The rear lot line shall be the southeast lot line for all flag lots (lots 8, 9 Block 1 and Lots 13, 14 Block 3).
5. No building, deck, or other structure may encroach into the required 30 foot wetland setback.
6. No rear yard or side yard setback variances shall be approved. (Ord. 2023-05, 5-15-2023)

5200.17: HUNTERS PASS ESTATES 2ND ADDITION:

A. Uses: Single Family dwellings, permitted accessory use allowed in the R-1A Residential Low-Density Single Family zoning district.

B. Lot Requirements And Setbacks:

Setbacks	**Front**	**Side (Interior)**	**Side (Corner)**	**Rear**	**Lot Area**	**Lot Width**

	Variable Not less than 30 feet	5/10 feet	N/A	30/10 feet	Variable 8,220-14,510 sq. feet Average 10,725 sq. feet	Variable 60 feet measure d at the required front setback

C. Special PUD Conditions:

1. The Hunters Pass Estates 2nd Addition lot sizes shall comply with the approved final plat.

2. The Hunters Pass Estates 2nd Addition is an approved coved design. Lot width is measured at the required front setback line. See the Hunters Pass Estates 2nd Addition Phase 2 required front yard setbacks summary.

Hunter's Pass 2nd Addition-Phase II

Minimum Lot Setback Summary

	Minimum Front Setback	**Minimum Side Setback-House Side**	**Minimum Side Setback-Garage Side**	**Minimum Rear Setback**
	Minimum Front Setback	**Minimum Side Setback-House Side**	**Minimum Side Setback-Garage Side**	**Minimum Rear Setback**
Block 1				
Lot 1	58	10	5	30
Lot 2	46	10	5	30
Lot 3	35	10	5	30
Lot 4	30	10	5	30
Lot 5	30	10	5	30
Lot 6	30	10	5	30
Block 2				
Lot 1	30	10	5	10
Lot 2	30	10	5	10
Block 3				
Lot 1	38	10	5	10
Lot 2	46	10	5	10
Lot 3	38	10	5	10
Lot 4	38	10	5	10

3. Five foot (5') side yard setback garage side/ten foot (10') side yard setback on the side for living space.

4. Rear setbacks for Block 1 lots are thirty feet (30'), rear yard setbacks for Block 2 and 3, lots are ten feet (10'). (Ord. 2023-05, 5-15-2023)

5200.18: HUNTERS PASS 3RD ADDITION:

A Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the R-1A zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	**Front**	**Side (Interior)**	**Side (Corner)**	**Rear**	**Lot Area**	**Lot Width**
	30 feet	5/10 feet	20 feet	25 feet	Variable 8,728 - 16,027 sq. ft. Average 11,989 sq. ft.	Variable 60 feet measure d at the required front setback

C. Special PUD Conditions:

1. The Hunters Pass 3rd Addition lot sizes shall comply with the approved final plat.

2. The Hunters Pass 3rd Addition is an approved coved design. Lot width is measured at the required front setback line.

3. Five foot (5') side yard setback garage side/ten foot (10') side yard setback on the side for living space.

4. Rear setbacks for lots abutting Hunters Lake shall meet the required shoreland setback from Ordinary High Water Level.

5. No building, deck, or other structure may encroach into the required thirty foot (30') wetland setback. (Ord. 2023-05, 5-15-2023)

5200.19: KINGSTON CROSSING:

A. Uses: The uses on said plat shall be restricted as follows:

1. The uses on Lot 1 of said plat shall be limited to twenty six (26) residential townhome units in the configuration shown on the plan set dated November 22, 2021, including the construction and operation of the playground and dog run areas and the parking lot shown on site plan dated November 22, 2021.

2. Uses on Lot 2 of said plat shall be limited to a seventy four (74) unit residential apartment building constructed substantially as shown on plan set dated November 22, 2021, along with a pool, clubhouse and parking lot.

3. Uses on Lot 3 of said plat shall be limited to a seventy four (74) unit residential apartment building constructed substantially as shown on the plan set dated November 22, 2021.

B. Lot Requirements And Setbacks: Setbacks on Lots 1, 2 and 3 shall be as shown on the plan set dated November 22, 2021.

C. Special PUD Conditions: Lots 1, 2 and 3 of said plat shall be subject to an easement agreement which shall include provisions substantially accomplishing the following objectives:

1. Lots 1, 2 and 3 of said plat shall have full use of the private drive and parking areas on said plat extending from 53rd Street to CSAH 19 as shown on the approved plans dated November 22, 2021 (collectively, "Private Drive"), including a shared cross-parking easement for Lot 3 of said plat to use the parking lot to be built on Lot 2 of said plat. In addition, in the event the City Council deems it necessary, developer shall allow Lot 1 of Heuring Meadows Commons to also use said Private Drive for ingress and egress, provided that said access shall be made in the location shown on the approved site plan dated November 21, 2021. At such time as Lot 1 of Heuring Meadows Commons connects to the Private Drive, said Lot 1 of Heuring Meadows Commons and the lots on said plat shall share the costs of maintaining the Private Drive. The Private Drive shall be maintained by the developer in good repair at all times similar to the manner in which the City maintains its residential streets.

2. At the time the final plat is recorded, unless such an agreement has already been recorded and burdens the property in said plat, developer shall record an easement agreement at the Wright County Recorder's Office that shall be binding upon Lots 1, 2 and 3 of said plat. Such easement agreement shall meet the approval of the City Attorney and the City Engineer, which approval shall not be unreasonably withheld, shall provide for access to the Private Drive by Lot 1 of Heuring Meadows Commons at such time as may be required by the City, and shall require the maintenance of said Private Drive in good repair at all times similar to the manner in which the City maintains its residential streets. Said Private Drive shall not be maintained by the City and shall remain a private road. (Ord. 2023-05, 5-15-2023)

5200.20 MARKETPLACE:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the B-3 zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses.

The uses on Lot 4, Block 1 shall be limited to a restaurant using at least four thousand (4,000) square feet of enclosed building space, and other uses in the remainder of the building as are allowed under the City's B-3 zoning district.

If a motor fuel station (with or without a convenience store and car wash) is located on Said Plat, it may only be located on Lot 2, Block 1 of Said Plat.

B. Lot Requirements And Setbacks: Building locations per Marketplace Planned Unit Development/Conditional Use Agreement dated August 7, 2007.

C. Special PUD Conditions: Shared parking across Lots 1-4, Block 1. (Ord. 2023-05, 5-15-2023)

5200.21: OUTLETS AT ALBERTVILLE (EAST AND WEST):

A. Uses: Uses limited to the special PUD conditions below.

B. Lot Requirements And Setbacks:

Setbacks per approved plan sets dated:	
Phase 1	06/30/1998
Phase 2	06/30/1998
Phase 3	09/26/2002 revised 10/17/2002

C. Special PUD Conditions: The following uses shall be allowed on all lots and outlots of the Outlets at Albertville and the Outlets at Albertville Second Addition Plat:

1. Antique or gift shop.
2. Art and school supplies.
3. Auto accessory store.
4. Bakery goods and baking of goods for retail sales on the premises.
5. Bath and bedding sales.
6. Books, office supplies or stationary stores.
7. Camera and photographic materials.
8. Candy, ice cream, popcorn, nuts, frozen desserts and soft drinks.
9. Carpet, rugs and tile.
10. Coin and philatelic stores.
11. Computers and computer accessories sales and service.
12. Convenience store without gasoline sales.
13. Costume, clothes rental.
14. Delicatessen.
15. Department and discount stores.
16. Drug store.
17. Florist shop.
18. Furniture stores.
19. Furriers when conducted only for retail trade on premises.
20. Garden supply stores.
21. Gift or novelty store.
22. Hobby store.
23. Household appliance sales and repair.

24. Jewelry stores.

25. Kitchenware sales.

26. Leather goods and luggage stores.

27. Paint and wallpaper sales.

28. Record-music shops.

29. Restaurants and on and off-sale liquor.

30. Sewing machine sales and service.

31. Shoe stores.

32. Sports and exercise equipment sales.

33. Wearing apparel and clothing stores.

34. Hospitality Businesses are permitted as an Interim Use within the Lot 1, Block 1, Outlets of Albertville Second Addition Planned Unit Development with the following conditions:

a. Number: No more than two (2) Hospitality Businesses shall be located within Lot 1, Block 1 Outlets of Albertville Second Addition.

b. Size: Individual Hospitality Businesses shall be limited to a maximum occupancy of three hundred (300) people at a single event.

c. Hospitality Businesses shall obtain building permits and Certificate of Occupancy for building modifications needed to change the building occupancy from retail to assembly.

d. The siting of the Hospitality Business within the Outlets Promenade shall demonstrate appropriate required parking and traffic patterns that do not interfere with Outlet Mall operations or negatively impact surrounding land uses.

e. The term of the Hospitality Businesses interim use shall be limited to three (3) years from the date of Certificate of Occupancy. Said use may be renewed upon request of the applicant and approval of the City Council.

No overnight storage or display shall be allowed outside any building for any of the uses listed above. (Ord. 2023-05, 5-15-2023)

5200.22: PARKSIDE COMMERCIAL CENTER:

A. Uses: Uses outlined in special PUD conditions below.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	35 feet	10 feet	20 feet	20 feet	10,000 sq. feet	100 feet

Building placement per approved plans dated March 15, 2005.

C. Special PUD Conditions:

Permitted uses:

1. The Animal Veterinary Clinics shall be allowed in all three (3') buildings (#10904, #10900, and #11004) and shall read as followings: Animal veterinary clinics (small animal) (with no overnight care) (no pet boarding), as regulated by chapter 2300 of this ordinance.

2. The Government and Public-Related Office Uses shall be allowed in all three buildings (#10904, #10900, and #11004).

3. The Service Business Uses (on-site services only) shall be allowed in all three buildings and shall be limited to the approved (and excluded) list of onsite service businesses:

General Office, including the following:

a. Insurance Agency;

b. Travel Agency;

c. Accounting/Bookkeeping firms;

d. Management companies;

e. Bank/Credit Union/Depository institutions;

f. Financial Planner;

g. Investment Banker;

h. Loan production office;

i. Appraisal Firm;

j. Title Insurance Company;

k. Mortgage Loan Company;

l. Small loan company;

m. Realty Company/Agency;

n. Real Estate development office;

o. Architectural firm;

p. Engineering firm;

q. Laboratory/Research offices;

r. Telemarketing;

s. Collection Agency.

Medical Use, including the following:

a. General practice physician;

b. Dental practice;

c. Medical specialty use;

d. Eye care offices/with associated retail products;

e. Orthodontist;

f. Chiropractic;

g. Psychiatric/Family Counseling;

h. Hearing aid examination with associated retail products;

i. Other medical or dental related use as may be approved by City.

Professional Service Use, including the following:

a. Hair and beauty salon (no nails only);

b. Student Learning Center;

c. Physical Therapy;

d. Physical Fitness (limited to two thousand (2,000) square foot maximum);

e. Occupational Therapy.

Approved Service Businesses:

a. Copy/printing services;

b. Event planning;

c. Photographic studio;

d. Appliance or electronic repair;

e. Tailor;

f. Travel agency or bureau;

g. Advertising/consultants or agency;

h. Personnel/Staffing service;

i. Bail Bonds;

j. Construction management offices;

k. Business consultants;

l. Computer/networking consultants;

m. Payroll services;

n. Credit counseling offices;

o. Electrology/Skin care services;

p. Transportation logistical services;

q. Home inspection service;

r. Private investigation service;

s. Equipment leasing service:

t. Massage therapy;

u. Tax preparation service;

v. Video tape/DVD duplication transfer service.

Service Businesses excluded from approved uses:

a. Laundromat;

b. Dry cleaners;

c. Funeral home/mortuary;

d. Banquet Hall;

e. Conference center;

f. Prosthetic device fabrication;

g. Tattoo/body piercing establishment;

h. Tanning salon.

4. Assembly Uses shall be subject to an administrative permit obtained prior to occupancy for Buildings #10904 and #10900, provided the following conditions are met:

a. Leasehold occupancy only;

b. Assembly use shall be accessory to a permitted office use

c. Assembly use floor area not to exceed 2,500 square feet for the entire Parkside Commercial PUD, located at Lot 2, Block 1, Parkside Commercial Center;

d. No outdoor activities allowed; and

e. The assembly use shall not conflict with or result in a parking shortage within the PUD site per Albertville's parking requirements.

A definition of assembly use: An accessory use to an office business where people come together, congregate or meet for the purpose of training, conducting business, education, or counseling. (Ord. 2023-05, 5-15-2023)

5200.23: PARKSIDE 3RD ADDITION AND 4TH ADDITION:

A. Uses: Single family homes and permitted accessory uses, conditional uses, and interim uses contained in the R-1 zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	25 feet	12,500 sq. feet	90 feet

Maximum lot coverage:	25%
Maximum building height:	35 feet
Lots 6, 7, 8, Block 1, Parkside 4th Addition:	May be 10 feet in front of setback line (may be at a point where lot width is less than 90 feet) if side yard setbacks can be met.
Parkside 4th Addition: Three lot width variances: Lots 6, 7 and 8 of Block 1.	Structure locations on these lots must be placed at or behind the required front setback line which may be at a point where the lots are less than 90 feet wide, provided that minimum side yard setbacks can be met.
Corner lot width:	100 feet

C. Special PUD Conditions: None. (Ord. 2023-05, 5-15-2023)

5200.24: PARTICLE CONTROL:

A. Uses: Land uses shall be limited to all permitted, conditional, and accessory uses allowed within the B-3 Zoning District. Any change of use from existing conditions shall be processed through the appropriate development applications called for by the Albertville Zoning Ordinance.

Industrial uses limited to industrial processing of dry food ingredients limited to milling, blending, air classifying, screening, packaging, warehousing, and storage per the approved site plan received December 2010 and civil plans dated July 12, 2022 and architectural plans dated July 11, 2022 shall be allowed on the site.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	35 feet	20 feet*	-	20 feet**	-	-
**Rear yard setback: 12.8 feet; *Side yard setback: 10 feet;						

C. Special PUD Conditions:

All buildings shall not exceed thirty five feet (35') in height. This will limit the silo height to existing standards.

Any and all permitted, conditional, and accessory uses allowed within the B-3 Zoning District shall meet the architectural standards of Section 4400.8 of the Albertville Zoning Ordinance.

Industrial processing of dry food ingredients buildings may have a metal exterior finish provided the color of any new building or structure matches the color and design of the principal building.

Thirty (30) and 31.8-foot curb cut widths. (Ord. 2023-05, 5-15-2023)

5200.25: PRAIRIE RUN:

A. Uses: Single family dwellings and permitted accessory uses contained in the R-1 Residential Single Family District.

B. Lot Requirements And Setbacks:

LOTS 1-15 BLOCK 1 AND LOTS 1-13 BLOCK 2

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	20/25 feet	5/10 feet	N/A	50/10 feet	10,000 sq. feet	65 feet

1. Twenty foot (20') front yard setback to the principal structure/twenty five foot (25') front yard setback to the garage.

2. Five foot (5') side yard setback garage side/ten foot (10') side yard setback on the side for living space.

3. Fifty foot (50') rear yard setback from County Road 18/ten foot (10') setback from wetland boundary.

4. Lot area and width as approved with Prairie Run final plat.

LOTS 14-38 BLOCK 2

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	30 feet	10 feet	20 feet	50/10 feet	12,000/ 10,000 sq. feet	90 feet

1. Twelve thousand (12,000) square feet minimum gross lot area/ten thousand (10,000) square feet net buildable lot area.

C. Special PUD Conditions: None. (Ord. 2023-05, 5-15-2023)

5200.26: PRESERVES AT ALBERTVILLE:

A. Uses: The purpose of the PAA/PUD district is to provide for single-family detached residential dwelling units and directly related complementary uses per approved PUD Final Stage development plans and final plat dated July 21, 2021.

The following are permitted uses in a PAA/PUD district:

1. Single-family detached dwelling units

2. Neighborhood common ownership clubhouse, pool, private park/playground/recreation facilities.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	25 feet	5 feet	20 feet	25/50 feet*	6,000 sq. feet	Interior: 50 feet Corner: 65 feet
*Rear setback for lots abutting 50th Street: 50 feet						

Patios and decks shall meet the minimum building setbacks.

Maximum Building Height: Thirty five feet (35').

Maximum Lot Coverage: No structure or combination of structures or hard cover shall occupy more than fifty-five percent (55%) of the lot area.

C. Special PUD Conditions:

1. Prohibited Uses:

a. Detached accessory buildings.

b. Fences except fences as part of the buffer yard along 50th Street.

c. Outdoor storage as addressed in Section 1000.15

2. The houses within the PAA/PUD District shall meet the following minimum design standards.

a. House exterior finish materials match the home models approved with the Preserve at Albertville planned unit development.

b. Minimum garage size shall four hundred eighty (480) square feet.

c. Each slab on grade house shall provide for a storm protection room.

3. The sale of individual lots within the subdivision shall be prohibited unless the developer first establishes a Common Interest Community (CIC) over all numbered lots within Said Plat and over Outlots A, B, and E with rules and maintenance requirements which will be applied to each lot, the private street (Outlot B) and the common areas of the plat (including Lot 21, Block 2, the clubhouse lot) and the ponds (Outlots A and E). The CIC and all rules, bylaws and recording documents shall be subject to the review and approval of the City Attorney prior to their recording. A change to allow individual lot ownership shall require the developer to apply for and receive an amendment to the PUD zoning to ensure that issues related to outdoor storage, accessory structures etc. are addressed to the satisfaction of the City. The City may record at the Wright County Recorder's Office a separate notice against all lots in Said Plat detailing the requirements of this paragraph 2.N.

4. The developer shall provide storm protection acceptable to the City for each home that does not have a basement.

5. Developer shall construct, operate and maintain a clubhouse and pool for the benefit of the residents of said plat for so long as said plat contains single family homes. Construction of said clubhouse and pool shall be completed within one year of the date of the Agreement.

6. The streets, sidewalks, curb, gutter and storm sewer systems shall remain privately owned and privately maintained by the developer in a manner similar to how the City maintains its public streets and sidewalks abutting single family homes. Developer shall maintain such roads, curb, gutter and sidewalk in a reasonably safe and passable manner at all times. Developer shall prepare and keep updated a five (5) year road, curb, gutter and sidewalk maintenance plan and shall provide such plans to the City on request by the City but at least once every five (5) years if the City has not requested such plan within the prior five (5) years.

7. All lots shall have free access and use of the road and sidewalks located on Outlot B. Neither developer nor any future owner of Outlot B shall unreasonably obstruct or otherwise deny the use of the road or sidewalk to any resident living on any lot in Said Plat. (Ord. 2023-05, 5-15-2023)

5200.27: SHOPPES AT PRAIRIE RUN:

A. Uses: The uses on all lots of said plat shall be limited to uses that are permitted under the City's B-2 zoning ordinance.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width

	35 feet	10 feet	20 feet	20 feet	10,000 sq. feet	100 feet

Lots shall be developed consistent with the site plan dated October 4, 2004 revised December 14, 2004.

C. Special PUD Conditions: Cross easement parking between Shoppes at Prairie Run 2 Lots 1, 2, 3 Block 1. (Ord. 2023-05, 5-15-2023)

5200.28: SHOPPES AT TOWNE LAKES ONE:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the B-2A zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

Uses on Lot 1 of said plat shall be limited to a restaurant permitted under the City's B-2A zoning ordinance.

Uses on Lot 5 of said plat shall be limited to a "sit-down" (non-fast food) restaurant otherwise permitted under the City's B-2A zoning ordinance. No other type of use on said lot shall be allowed under this agreement without a modification to this agreement.

The use on Lot 6 shall be limited to a motel permitted under the City's B-2A zoning ordinance. No other type of use on said lot shall be allowed under this agreement without a modification to this agreement.

Uses on Lots 2, 3, and 4 shall comply with the City's B-2A zoning ordinance except where flexibility from the provisions of such ordinance has been granted via this PUD.

B. Lot Requirements And Setbacks: All minimum building setbacks shall be as follows:

1. For Lot 2, a minimum building setback of twenty feet (20') from West Lake Town Drive and Linwood Drive right of ways shall apply.

2. For Lot 3, a minimum building setback of twenty five feet (25') feet from Wright County State Aid Highway 19 shall apply, provided developer constructs the building shown on the plan set dated October 6, 2003 and revised September 17, 2004 in the configuration and of substantially the same materials as shown.

3. For Lot 4, a minimum building setback of twenty feet (20') from Langford Drive and all private streets shall apply.

4. For Lot 5, a minimum building setback of twenty five feet (25') from the private street along the west property line and thirty feet (30') along the north property line shall apply.

5. For Lot 6, a minimum building setback of twenty nine feet four inches (29'4") from Langford Drive shall apply for the main portion of the building, provided that an attached structure as shown on the plan set dated October 6, 2003 and revised September 17, 2004, housing an indoor pool may be constructed at a minimum building setback of twenty feet (20') from the right of way of Langford Drive.

6. For any of the lots on said plat, if a minimum setback along one of the private streets has not been otherwise specified, such minimum setback shall be at least twenty feet (20').

C. Special PUD Conditions: A reduction of twenty four (24) parking stalls in combined parking on Lots 5 and 6 based on the building square footages shown on the plan set dated October 6, 2003 and revised September 17, 2004 and based on the use of Lot 5 as a sit down restaurant and Lot 6 as a motel is hereby approved.

For Lots 1, 2, 3 and 4, the combined parking requirements shall exceed those required in the B-2A zoning district by a total of seven (7) parking spaces as shown on the plan set dated October 6, 2003 and revised September 17, 2004.

A conditional use is granted to allow impervious surfaces to exceed the twenty five percent (25%) maximum allowed under the City's shoreland ordinance provided the property is developed in accordance with the terms of this ordinance, and provided that the following requirements are implemented as to all development which occurs on said plat:

1. No building shall exceed twenty five feet (25') in height, except the building to be placed on Lot 6, which shall not exceed forty feet (40') and one inch (1") in height (as defined under the City's zoning ordinance). A variance is hereby granted from the height provision of the City's shoreland ordinance to allow the building to be constructed on Lot 6 to a height not to exceed forty feet and one inch (40'1").

2. The City may impose reasonable building requirements on any building not detailed on the plan set dated October 6, 2003 and revised September 17, 2004 in an effort to reduce visibility of the building from the public waters of adjacent shorelands by vegetation, topography, and building color.

3. For each lot upon which impervious surface will exceed 50% of the lot area, all buildings must be set back at least three hundred feet (300') from the ordinary high water mark of School Lake or must implement and maintain rain gardens, depressions, storage and filtration systems in a manner that reduces the storm water runoff for each such lot to a total volume that would be achieved if the impervious surface lot coverage were less than fifty percent (50%) of the lot area. (Ord. 2023-05, 5-15-2023)

5200.29: SHOPPES AT TOWNE LAKES TWO:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the B-2A zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

The uses on Lot 2, Block 1 of said plat shall be limited to a restaurant permitted under the City's B-2A zoning ordinance, subject to the following restrictions:

Developer agrees that the restaurant located on Lot 2, Block 1 of Said Plat shall be at least 4,000 square feet in size;

The restaurant located on Lot 2, Block 1 shall be a free standing, single use building (i.e. the building shall be occupied by no more than one use and one user at any given time);

Lots 3 and 5, Block 1.

The use on Lot 3, Block 1 of said plat shall be limited to a restaurant permitted under the City's B-2A zoning ordinance, subject to the following restrictions:

Developer agrees that the restaurant located on Lot 3, Block 1 of said plat shall be at least eight thousand (8,000) square feet in size and shall be restricted to a "sit-down" restaurant otherwise permitted in the City's B-2A zoning district. For purposes of the agreement, a "sit-down" restaurant means a restaurant in which customers seated at individual tables order and are served food by waiters and/or waitresses and no more than a total of fifteen percent (15%) of food sales are pick-up, delivery, and carry-out orders which are eaten at off-premise locations. The building constructed on this lot shall not be permitted to have a drive-up window where customers can order or pickup food from their cars;

The restaurant located on Lot 3, Block 1 of said plat may provide an outdoor dining area in direct connection to the sales within said restaurant.

Restaurants located on Lot 3, Block 1 and Lot 2, Block 1 shall be free standing, single use buildings (i.e. each building shall be occupied by no more than one use at any given time)

The exact locations, configurations and building designs of restaurants located on Lot 3, Block 1 and Lot 2, Block 1 are subject to approval by City Council.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
B-2A	35 feet	10 feet*	35 feet*	20 feet*	1 acre	150 feet
*Except not less than thirty five feet (35') when abutting an R district or adjacent to a public street.						

The B-2A zoning district minimum setbacks shall apply to all buildings in said plat, except as follows:

Lot 1, Block 1 a minimum building setback of twenty feet (20') from Linwood Drive and all private streets shall apply.

Lot 1, Block 1 a minimum building setback of twenty five feet (25') from County State Aid Highway ("CSAH") 19/Labeaux Avenue right of way shall apply.

Lot 3, Block 1 a minimum building setback of twenty five feet (25') from CSAH 19/Labeaux Avenue right of way shall apply.

Lot 4, Block 1 a minimum building setback of twenty feet (20') from Linwood Drive NE and all private streets shall apply.

For any of the lots on said plat, if a minimum building setback along one of the private streets has not been otherwise specified, each minimum setback shall be at least twenty feet (20').

C. Special PUD Conditions: No outdoor displays shall be permitted on any property within said plat, outdoor dining is allowed per City Code and shall not be considered an outdoor display. (Ord. 2023-05, 5-15-2023)

5200.30: TOWNE LAKES 1ST ADDITION AND 2ND ADDITION:

A. Uses: Single family dwellings that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	15-20 feet*	5-10 feet**	15/20 feet***	25 feet****	-	-
*Front setback to porch: 15 feet/Front setback to garage: 20 feet. **Side yard setback interior: 10 feet from living space/garage may be 5 feet from property line provided that there is 15 feet between structures on adjoining lot. ***Side yard setback corner to garage: 20 feet ****Rear setback to lakeshore: 50 feet						

C. Special PUD Conditions:

Lot area to match final plat.

Lot width to match final plat. (Ord. 2023-05, 5-15-2023)

5200.31: TOWNE LAKES 3RD ADDITION:

A. Uses: Single family dwellings that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	15-24 feet*	5-10 feet**	15/20 feet	25 feet	-	-
*Front yard setback to garage: 24 feet/ Front yard setback to porch: 15 feet **Side yard setback to garage: 5 feet/10 feet living space/15 feet between dwellings						

Garage recessed a minimum of nine feet (9') from front of house.

Side yard setback corner garage: Twenty feet (20').

C. Special PUD Conditions: The Towne Lakes 3rd Addition shall be subject to the master homeowner's association established with the Towne Lakes 1st and 2nd Additions. (Ord. 2023-05, 5-15-2023)

5200.32: TOWNE LAKES 4TH ADDITION:

A. Uses: Townhomes per plan set approved November 17, 2003 that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Betwee n Building s)	Side (Corner)	Rear	Lot Area	Lot Width
	15/11 feet*	25 feet**	20 feet	25 feet***	-	-
Building separation: Units 22, 23, 27, 28 block 2 : 17 feet **Building separation: Units 4, 5, 10, 11, block 1 : 20 feet *Rear setback to alley: 20 feet ***Rear setback to driveway off alley: 25 feet *Front yard setback from private driveway: 15 feet to garage/11 feet to porch						

C. Special PUD Conditions: The Towne Lakes 4th Addition shall be subject to the master homeowner's association established with the Towne Lakes 1st and 2nd Additions. (Ord. 2023-05, 5-15-2023)

5200.33: TOWNE LAKES 5TH ADDITION:

A. Uses: Single family dwelling uses that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	15-24 feet*	5-10 feet**	15/24 feet***	25 feet	-	-
*Front yard to garage: 24 feet/15 feet to porch **Side yard to garage interior lot: 5 feet/10 feet dwelling/15 feet between houses Garage recessed minimum of 9 feet from front of house ***Side yard to garage corner lot: 24 feet						

C. Special PUD Conditions: The Towne Lakes 5th Addition shall be subject to the master homeowner's association established with the Towne Lakes 1st and 2nd Additions. (Ord. 2023-05, 5-15-2023)

5200.34: TOWNE LAKES 6TH ADDITION:

A. Uses: Townhomes per architectural plan set dated 06/01/2017 and site plan dated June 2, 2017.

Single Family dwellings, permitted accessory use allowed in the R-1A Residential Low-Density Single Family zoning district on Lots 1-5, Block 2 Towne Lake 6th Addition.

B. Lot Requirements And Setbacks:

LOTS 1-42 BLOCK 1. (Townhomes)

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	16/22 feet*	8 feet between building s	12/8 feet**	N/A	Per the approved final plat	Per the approved final plat
*16 foot setback from public street, 22 foot setback from the private drive. The townhomes shall maintain a minimum 8 foot setbacks between buildings. **12 foot side yard setback from public streets, 8 foot setback from private streets.						

LOTS 1-5 BLOCK 2. (Single family homes)

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	15/24 feet*	5/10 feet**	N/A	25 feet	9,357 sq. feet	65 feet
*15 foot front yard setback for porch or house, 24 foot setback between garage and the front lot line. **5 foot setback for garage and 10 foot setback for living space of the house, 15 feet between homes on adjoining lots.						

C. Special PUD Conditions:

1. Townhome building designs and exterior finish per building plans date June 1, 2007.

2. Private streets shall be signed "no parking/fire lane".

3. Townhome units shall have a minimum garage size of four hundred forty (440) square feet.

4. The Towne Lakes 6th Addition shall be subject to the master homeowner's association established with the Towne Lakes 1st and 2nd Additions. (Ord. 2023-05, 5-15-2023)

5200.35: TOWNE LAKES 7TH ADDITION:

A. Uses: All single family dwellings that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	15-24 feet*	5/10 feet**	15 feet	25 feet***	-	-
*Front yard setback to garage: 24 feet/Front setback to porch 15 feet **Side yard setback to garage: 5 feet/10 feet living space/15 feet between dwellings Garages recessed a minimum of 9 feet from front of house ***Rear yard setback Lot 1, Block 4 & Lot 5, Block 5: 10 feet						

C. Special PUD Conditions: The Towne Lakes 7th Addition shall be subject to the master homeowner's association established with the Towne Lakes 1st and 2nd Additions. (Ord. 2023-05, 5-15-2023)

5200.36: WESTWIND 2ND ADDITION:

A. Uses: All single family dwellings, permitted accessory uses, conditional uses, and interim uses contained in the R-3 zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	20 feet	10 feet	30 feet	30 feet	9,000 sq. feet*	80 feet

C. Special PUD Conditions: *Minimum lot area nine thousand (9,000) square feet. (Ord. 2023-05, 5-15-2023)

5200.37: WESTWIND 3RD ADDITION:

A. Uses: All townhomes per approved plans dated February 14, 2008 defined in this ordinance that are consistent with the comprehensive plan shall be treated as allowed uses within a PUD district.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	35 feet*	15 feet**	-	30 feet	-	-
*35 foot front yard setback from frontage road Side yard setback along public Right of Way (ROW): 20 feet **15 foot side yard setback from west lot line 10 foot side yard setback from east lot line Building location shall be per approved site plan dated 02/14/2008						

C. Special PUD Conditions: Use and site design limited to February 14, 2008 approved site plan. (Ord. 2023-05, 5-15-2023)

5200.38: 6737 LABEAUX AVENUE:

A. Uses: All permitted uses, permitted accessory uses, conditional uses, and interim uses contained in the B-2A zoning district defined in this ordinance that are consistent with the zoning performance standards shall be treated as allowed uses within a PUD district.

Light manufacturing/industrial permitted.

B. Lot Requirements And Setbacks:

Setbacks	Front	Side (Interior)	Side (Corner)	Rear	Lot Area	Lot Width
	35 feet	10 feet	35 feet	20 feet	1 acre	150 feet

C. Special PUD Conditions:

1. Within the approved PUD/B-2A shall follow the conditions set forth below:

a. All future tenant changes shall meet all building and fire code requirements for their building occupancy classification prior to occupancy.

b. The site shall abide by all B-2A zoning restrictions.

c. The applicant shall demonstrate adequate utility services for the proposed uses. If the private systems do not meet code, then connection to city utilities will be required.

d. The parking shall be consistent to the submitted site plan with the following conditions:

(1) The number of required parking stalls shall be determined by the tenant mix and use of floor space.

(2) The parking area shall be dimensioned and striped per city code. Disability parking shall be designated and striped accordingly.

(3) The parking area on the east side of the building shall be designed and constructed in full compliance with city code. Without construction details, the parking area is not approved as of the date of passage of this ordinance.

(4) All areas beyond the approved parking areas shall be grassed and landscaped to define the boundaries of the approved parking area. Applicant shall provide a landscape plan that establishes a schedule for establishment of these turfed areas.

2. Within the approved PUD/B-2A, any future building expansions above and beyond the site plan must meet city code and follow the PUD/B-2A regulations.

3. Within the approved PUD/B-2A, permitted land uses shall be limited to the following:

a. All permitted uses allowed within the B-2A Zoning District. Any change of use from existing conditions shall be processed through the appropriate development applications called for by the Albertville Zoning Ordinance.

4. Within the approved PUD/B-2A, permitted accessory uses shall be limited to the following:

a. All permitted accessory uses allowed within the B-2A Zoning District. Any change of use from existing conditions shall be processed through the appropriate development applications called for by the Albertville Zoning Ordinance.

5. Within the approved PUD/B-2A, permitted conditional uses shall be limited to the following:

a. All permitted conditional uses allowed within the B-2A Zoning District. Any change of use from existing conditions shall be processed through the appropriate development applications called for by the Albertville Zoning Ordinance.

b. Light manufacturing or assembly of a wide variety of products, that will not produce exterior noise, glare, fumes, obnoxious products, byproducts or wastes or creates other objectionable impact to the surrounding properties or street right of ways.

(1) Required parking for the use shall be of a paved surface.

(2) On site loading and delivery shall meet the conditions ofchapter 1300 of the Albertville Zoning Code.

(3) All trash and or recycling equipment shall be located within a trash enclosure or within the building.

(4) Proposed industries shall demonstrate that they will not produce exterior noise, glare, fumes, obnoxious products, byproducts or wastes or creates other objectionable impacts or nuisances on the adjoining properties or the environment.

6. Outdoor Storage Areas As An Interim Use Permit Provided That:

a. The outdoor storage area shall meet all of the performance standards of section1000.7 of Albertville Zoning Code.

b. The outdoor storage area meets lighting standards set forth in section1000.15 B.5. of Albertville Zoning Code.

7. Prohibited uses include all those set forth in section4350.5 of the B-2A Zoning District.

8. The minimum lot and setbacks of section 4350.8 of the B-2A Zoning District shall apply.

9. The maximum building height shall follow the regulations in section4350.7 of the B-2A Zoning District.

10. Any and all permitted, conditional, and accessory uses allowed withing the B-2A Zoning District shall meet the special landscaping requirements of Section 4350.8 of the Albertville Zoning Code.

11. Any and all permitted, conditional, and accessory uses allowed within the B-2A Zoning District shall meet the architectural standards of section 4350.9 of the Albertville Zoning Code.

12. All new tenants will have to provide enough parking for their specific land use and follow all off street parking requirements set forth in Chapter 1200 of the Albertville Zoning Code.

13. Tenants shall meet all applicable requirements of the Minnesota Pollution Control Agency and City Building and Fire Codes. (Ord. 2023-05, 5-15-2023)

APPENDIX B-1

ELECTRIC FRANCHISES

ORDINANCE NO. 2009-014

WRIGHT HENNEPIN ELECTRIC CO-OP FRANCHISE ORDINANCE

AN ORDINANCE GRANTING TO WRIGHT HENNEPIN COOPERATIVE ELECTRIC ASSOCIATION, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF ALBERTVILLE, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF THE CITY FOR SUCH PURPOSES.

THE CITY COUNCIL OF THE CITY OF ALBERTVILLE, WRIGHT COUNTY, MINNESOTA, ORDAINS:

SECTION 1. DEFINITIONS.

For purposes of this ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City. The city of Albertville, county of Wright, state of Minnesota.

City Utility System. Facilities used for providing non-energy related public utility service owned or operated by city or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

Commission. The Minnesota public utilities commission, or any successor agency or agencies, including an agency of the federal government which preempts all or part of the authority to regulate electric retail rates now vested in the Minnesota public utilities commission.

Company. Wright Hennepin Cooperative Electric Association, its successors and assigns.

Electric Facilities. Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by company for the purpose of providing electric energy for public use.

Gross Revenues. Gross Revenues means all sums, excluding any surcharge or similar addition to the company's charges to customers for the purpose of reimbursing the company for the cost resulting from the franchise fee, received by the company from the sale of electric energy to its retail customers within the corporate limits of the city.

Non-Betterment Costs. Costs incurred by company from relocation, removal or rearrangement of electric facilities that do not result in an improvement to the electric facilities.

Notice. A written notice served by one party on the other party referencing one or more provisions of this ordinance. Notice to company shall be mailed to Wright-Hennepin Cooperative Electric Association, PO Box 330, Rockford, MN 55373. Notice to the city shall be mailed to the city administrator, city hall, 5959 Main Avenue NE, P.O. Box 9, Albertville, MN 55301. Either party may change its respective address for the purpose of this ordinance by written notice to the other party.

Public Ground. Land owned by the city for park, open space or similar purpose, which is held for use in common by the public.

Public Way. The area on, below or above a public roadway, highway, street, cart way, bicycle lane, and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility and drainage easements of the city.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 Grant Of Franchise. City hereby grants company, for a period of 20 years from the date passed and approved by the city, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the city as its boundaries now exist or as they may be extended in the future. For these purposes, company may construct, operate, repair and maintain electric facilities in, on, over, under and across the public ways and public grounds of city, subject to the provisions of this ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the city pursuant to ordinance and to the further provisions of this franchise agreement. Two years prior to expiration of this franchise agreement, the parties will meet and discuss renewal of this franchise agreement.

2.2 Effective Date; Written Acceptance. This franchise agreement shall be in force and effect from and after passage of this ordinance, its acceptance by company, and its publication as required by law. The city by council resolution may revoke this franchise agreement if company does not file a written acceptance with the city within 90 days after publication.

2.3 Service And Rates. The service to be provided and the rates to be charged by company for electric service in city are not subject to the jurisdiction of the commission. The area within the city in which company may provide electric service is subject to the provisions of Minnesota statutes, section 216B.40.

2.4 Publication Expense. The expense of publication of this ordinance will be paid by city and reimbursed to city by company.

2.5 Dispute Resolution. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in district court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

2.6 Continuation Of Franchise. If this franchise expires and the city and the company are unable to agree on the terms of a new franchise, this franchise, including any amendments thereto, will remain in effect until a new franchise is agreed upon, or until 90 days after the city or the company serves written notice to the other party of their intention to allow the franchise agreement to expire, but in no event shall the franchise continue for more than one (1) year after expiration of the 20-year term set forth in section 2.1.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1 Location Of Facilities. Electric facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over public ways and so as not to disrupt normal operation of any city utility system previously installed therein. Electric facilities shall be located on public grounds as determined by the city. Company's construction, reconstruction, operation, repair, maintenance and location of electric facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the city to the extent not inconsistent with the terms of this franchise agreement. Under this franchise agreement, the city does not relinquish its police power or regulatory authority and the company does not relinquish its eminent domain authority.

3.2 Field Locations. Company shall provide field locations for its underground electric facilities within city consistent with the requirements of Minnesota statutes, chapter 216D.

3.3 Street Openings. Company shall not open or disturb any public way or public ground for any purpose without first having obtained a permit from the city, if required by a separate ordinance, for which the city may impose a reasonable fee. Permit conditions imposed on company shall not be more burdensome than those imposed on other private, non-city owned utilities for similar facilities or work. Company may, however, open and disturb any public way or public ground without permission from the city where an emergency exists requiring the immediate repair of electric facilities. In such event company shall notify the city by telephone to the office designated by the city as soon as practicable. Not later than the second working day thereafter, company shall obtain any required permits and pay any required fees.

3.4 Restoration. After undertaking any work requiring the opening of any public way or public ground, company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for two years thereafter. The work shall be completed as promptly as weather permits, and if company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the public way or public ground in the said condition, the city shall have, after demand to company to cure and the passage of a reasonable period of time following the demand, but not to exceed five business days, the right to make the restoration at the expense of company. Company shall pay to the city the cost of such work done for or performed by the city. This remedy shall be in addition to any other remedy available to the city for noncompliance with this section 3.4, but the city hereby waives any requirement for company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the city, of a person or entity obtaining the city's permission to install, replace or maintain facilities in a public way.

3.5 Avoid Damage To Electric Facilities. Nothing in this ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging electric facilities while performing any activity.

3.6 Notice Of Improvements. The city must give company reasonable notice of plans for improvements to public ways or public ground where the city has reason to believe that electric facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the public ways and public grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the city will start the work, and (v) if more than one public way or public ground is involved, the order in which the work is to proceed. The notice must be given to company a sufficient length of time in advance of the actual commencement of the work to permit company to make any necessary additions, alterations or repairs to its electric facilities.

3.7 Shared Use Of Poles. Company shall make space available on its poles or towers for city fire, water utility, police or other city facilities whenever such use meets all applicable safety and clearance standards and will not interfere with the use of such poles or towers by company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the city shall pay for any added cost incurred by company because of such use by city.

3.8 Abandoned Facilities. Company may abandon underground electric facilities in place, provided, at city's request, company will remove abandoned electric facilities interfering with a city improvement project, but only to the extent such electric facilities are uncovered by excavation as part of the city improvement project, and provided that the company shall perforate the bottom of all unremoved vaults and fill such vaults with sand until such time as their removal may be required under the provisions of this agreement. The company shall preserve and maintain records describing the location of all abandoned and retired facilities within the city, produce such records at the city's request, and comply with the location requirements of Minnesota statutes section 216D.04 with respect to all facilities, including abandoned and retired facilities.

3.9 Mapping Information. The company must promptly provide mapping information for any of its electric facilities in accordance with the requirements and Minnesota rules part 7819.4000 and 7819.4100.

SECTION 4. RELOCATIONS.

4.1 Relocation Of Electric Facilities In Public Ways. If the city determines to vacate a public way for a city improvement project, or at city's cost to grade, regrade, or change the line of any public way, or alter or reroute the traveled surface of any public way or construct or reconstruct any city utility system in any public way, it may order company to relocate its electric facilities located therein if relocation is reasonably necessary to accomplish the city's proposed public improvement. Except as provided in section 4.3, company shall relocate its electric facilities at its own expense. The city shall give company reasonable notice of plans to vacate for a city improvement project, or to grade, regrade, or change the line of any public way or to construct or reconstruct any city utility system. Nothing in this ordinance requires company to relocate, remove, replace or reconstruct at its own expense its electric facilities where such relocation, removal, replacement or reconstruction is: 1) solely for the convenience of the city and is not reasonably necessary for the construction or reconstruction of a public way or city utility system or other city improvement; or 2) reasonably necessary for the safety of the traveling public.

4.2 Relocation Of Electric Facilities In Public Ground. Except as provided in section 4.3 below, the city may require company at company's

expense to relocate or remove its electric facilities from public ground upon a finding by city that the electric facilities have become or will become a substantial impairment to the existing or proposed public use of the public ground. Relocation shall comply with applicable city code ordinances and other applicable law.

4.3 Projects With Federal Funding. Relocation, removal, or rearrangement of any company electric facilities made necessary because of the extension into or through city of a federally-aided highway project shall be governed by the provisions of Minnesota statutes, section 161.46, as supplemented or amended. It is understood that the right herein granted to company is a valuable right. City shall not order company to remove or relocate its electric facilities when a public way is vacated, improved or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the federal government or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to company, but the city need not pay those portions of such for which reimbursement to it is not available.

4.4 Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the city and shall not be construed to waive or modify any rights obtained by company for installations within a company right-of-way acquired by easement or prescriptive right before the applicable public ground or public way was established, or company's rights under state or county permit.

SECTION 5. TREE TRIMMING.

Company may trim all trees and shrubs in the public ways and public grounds of city to the extent company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any electric facilities installed hereunder, provided that company shall save the city harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the city.

SECTION 6. INDEMNIFICATION.

6.1 Indemnity Of City. Company shall indemnify, keep and hold the city free and harmless from any and all liability on account of injury to or death of persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the electric facilities located in the public ways and public grounds. The city shall not be indemnified for losses or claims to the extent such loss was occasioned through its own negligence except for losses or claims arising out of or alleging the city's negligence as to the issuance of permits for, or inspection of, company's plans or work.

6.2 Defense Of City. In the event a suit is brought against the city under circumstances where this agreement to indemnify applies, company at its sole cost and expense shall defend the city in such suit if written notice thereof is promptly given to company within a period wherein company is not prejudiced by lack of such notice. If company is required to indemnify and defend, it will thereafter have control of such litigation, but company may not settle such litigation without the consent of the city, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the city; and company, in defending any action on behalf of the city shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

SECTION 7. VACATION OF PUBLIC WAYS.

The city shall give company at least two weeks prior written notice of a proposed vacation of a public way. Except where required for a city improvement project, the vacation of any public way, after the installation of electric facilities, shall not operate to deprive company of its rights to operate and maintain such electric facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to company. In no case, however, shall city be liable to company for failure to specifically preserve a right-of-way under Minnesota statutes, section 160.29. In accordance with Minnesota rules, part 7819.3200, if the city's order directing vacation of the public way does not require relocation of the company's electric facilities to prevent interference with a current public improvement, the vacation proceedings shall not be deemed to deprive company of its right to continue to use the right-of-way of the former public way for its electric facilities installed prior to such order of vacation.

SECTION 8. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the city shall not affect the validity of this ordinance. Any governmental unit succeeding the city shall, without the consent of company, succeed to all of the rights and obligations of the city provided in this ordinance.

SECTION 9. FRANCHISE FEE.

9.1 Fee Schedule. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on company the city may impose on company a franchise fee not to exceed five percent (5%) of the company's gross revenues, as hereinafter defined, by collecting the amounts calculated on a flat fee per meter/per class, per/month basis as indicated in a fee schedule set forth in a separate ordinance from each customer in the designated customer classification for service at each and every customer location, based on a fee schedule form similar to the following:

Class	Fee Per Premises Per Month
Residential	$2.50
Sm C & I - non-dem	$5.00
Sm C & I - demand	$10.00
Large C & I	$50.00
Public street lighting	$2.00
Muni pumping N/D	n/a
Muni pumping dem	n/a

The franchise fee shall be paid based on the amount collected by Wright Hennepin Cooperative Electric Association during complete billing months during the period for which payment is to be made by imposing a surcharge ("additional fee") equal to the designated franchise fee for the applicable customer classification in all customer billings for metered service in each class. The payment shall be paid four times a year and due the last business day of the calendar month following the end of each quarter (payments being due January 31, April 30, July 31, and October 31 during each calendar year).

In the event the city desires to collect a franchise fee as set forth above, the city shall give company notice of its intent to impose such a franchise fee by separate ordinance. Such notice shall set out the proposed franchise fee as a percentage of the company's gross revenues received from customers served within the city of Albertville and shall be calculated in an amount consistent with this franchise agreement. Upon receipt of such notice, company shall prepare and deliver to city within 30 days of such notice a fee schedule that imposes said franchise fee upon the classes of users set forth above. The annual franchise fee imposed upon each class of user as set forth in the fee schedule form shall, to the extent reasonably possible, not exceed the percentage being collected from any other class of user, provided, however, that the city and company may waive this provision by city approval of a fee schedule which collects a materially higher percentage from one or more classes of users than from others followed by the written consent of company to such fee schedule.

9.2 Separate Ordinance. The franchise fee shall be imposed by separate ordinance duly adopted by the city council, which ordinance shall not be adopted until at least thirty (30) days after written notice enclosing such proposed ordinance has been served upon the company by certified mail, and written acceptance or refusal to accept thereof by company. No action by the city to implement a separate ordinance will commence until this ordinance is effective.

9.3 Terms Defined. For the purpose of this section 9, the following definitions apply:

9.3.1 "Customer classification" shall refer to the classes listed on the fee schedule and as defined or determined in company's electric tariffs.

9.3.2 "Fee schedule" refers to the schedule in section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The fee schedule in the separate ordinance may include new customer classifications added by company to its electric tariffs after the effective date of this franchise agreement.

9.3.3 "Gross revenue" means all sums, excluding any surcharge or similar addition to the company's charges to customers for the purpose of reimbursing the company for the cost resulting from the franchise fee, received by the company from the sale of electricity to its retail customers within the corporate limits of the city.

9.4 Collection Of The Fee. The franchise fee shall be paid based on the amount collected by company during complete billing months during the period for which payment is to be made by imposing a surcharge ("additional fee") equal to the designated franchise fee for the applicable customer classification in all customer billings for metered service in each class. The payment shall be paid four times a year and due the last business day of the calendar month following the end of each quarter (payments being due January 31, April 30, July 31, and October 31 during each calendar year). The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually, and no change shall require a collection from any customer for metered service in excess of the amounts specifically permitted by this section 9. Said franchise fee shall be payable by company only to the extent company is legally able to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in company's applicable rate for electric service. Company may pay the city the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the city at reasonable times provided that the city and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers, unless the city is required to disclose such information under applicable state or federal law.

9.5 Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against company unless it lawfully imposes and the city quarterly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from retail sales of electrical energy and natural gas within the city by any other retail energy supplier, provided that, as to such a supplier, the city has the authority to require a franchise fee or to impose a tax without abrogating an existing franchise agreement. Such requirement to impose an equivalent fee on any retail natural gas sales within the city shall not apply if the separate ordinance imposing the fee on company requires the city to use the franchise fee collected only for the following purposes:

i. Betterment of the electric facilities, including such betterments as placing the electric facilities underground or installing decorative lighting above ground;

ii. Paying any and all city electrical bills for traffic signals, street lights, security lighting, and ball field lighting;

iii. Paying any and all related electricity costs incurred by the city to operate city public facilities, including but not limited to city hall, public works, wastewater treatment facility, and fire hall.

9.6 Separate Accounting. In the event the city imposes a franchise fee upon the company without imposing a fee or tax of the same or greater equivalent amount on the receipts from retail sales of natural gas where the city otherwise has the legal authority to do so, the city shall separately account for all franchise fee proceeds received from the company, including all expenditures thereof.

SECTION 10. PROVISIONS OF ORDINANCE.

10.1 Severability. Every section, provision, or part of this ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other city ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.

10.2 Limitation On Applicability. This ordinance constitutes a franchise agreement between the city and company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

10.3 Waiver. This franchise agreement shall not be interpreted to constitute a waiver of the city of any of its defenses of immunity or limitations on liability under any applicable law, including, but not limited to the provisions of Minnesota statutes chapter 466.

SECTION 11. AMENDMENT PROCEDURE.

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this ordinance may be amended at any time by the city passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of company's written consent thereto with the city clerk within 90 days after the date of final passage by the city of the amendatory ordinance.

SECTION 12. PREVIOUS FRANCHISES SUPERSEDED.

This franchise supersedes any previous electric franchise granted to company or its predecessor.

Passed and approved: Tuesday, September 8, 2009.

—

Ron Klecker, Mayor

Attest:

Bridget Miller, City Clerk

Date Published: Monday, September 21, 2009

(Ord. 2009-014, 9-8-2009; amd. Ord. 2010-013, 1-3-2011; Ord. 2010-015, 1-3-2011, eff. 2-1-2011)

ORDINANCE NO. 2009-015

XCEL ENERGY ELECTRIC FRANCHISE ORDINANCE

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF ALBERTVILLE, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF THE CITY FOR SUCH PURPOSES.

THE CITY COUNCIL OF THE CITY OF ALBERTVILLE, WRIGHT COUNTY, MINNESOTA, ORDAINS:

SECTION 1. DEFINITIONS.

For purposes of this ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City. The city of Albertville, county of Wright, state of Minnesota.

City Utility System. Facilities used for providing non-energy related public utility service owned or operated by city or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

Commission. The Minnesota public utilities commission, or any successor agency or agencies, including an agency of the federal government which preempts all or part of the authority to regulate electric retail rates now vested in the Minnesota public utilities commission.

Company. Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy its successors and assigns.

Electric Facilities. Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by company for the purpose of providing electric energy for public use.

Gross Revenues. Gross revenues means all sums, excluding any surcharge or similar addition to the company's charges to customers for the purpose of reimbursing the company for the cost resulting from the franchise fee, received by the company from the sale of electric energy to its retail customers within the corporate limits of the city.

Non-Betterment Costs. Costs incurred by company from relocation, removal or rearrangement of electric facilities that do not result in an improvement to the electric facilities.

Notice. A written notice served by one party on the other party referencing one or more provisions of this ordinance. Notice to company shall be mailed to the general counsel, 414 Nicollet Mall, 5th Floor, Minneapolis, MN 55401. Notice to the city shall be mailed to the city administrator, city hall, 5959 Main Avenue NE, P.O. Box 9, Albertville, MN 55301. Either party may change its respective address for the purpose of this ordinance by written notice to the other party.

Public Ground. Land owned by the city for park, open space or similar purpose, which is held for use in common by the public.

Public Way. The area on, below or above a public roadway, highway, street, cart way, bicycle lane, and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility and drainage easements of the city.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 Grant Of Franchise. City hereby grants company, for a period of 20 years from the date passed and approved by the city, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the city as its boundaries now exist or as they may be extended in the future. For these purposes, company may construct, operate, repair and maintain electric facilities in, on, over, under and across the public ways and public grounds of city, subject to the provisions of this ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the city pursuant to ordinance and to the further provisions of this franchise agreement. Two years prior to expiration of this franchise agreement, the parties will meet and discuss renewal of this franchise agreement.

2.2 Effective Date; Written Acceptance. This franchise agreement shall be in force and effect from and after passage of this ordinance, its acceptance by company, and its publication as required by law. The city by council resolution may revoke this franchise agreement if company does not file a written acceptance with the city within 90 days after publication.

2.3 Service And Rates. The service to be provided and the rates to be charged by company for electric service in city are subject to the jurisdiction of the commission. The area within the city in which company may provide electric service is subject to the provisions of Minnesota statutes, section 216B.40.

2.4 Publication Expense. The expense of publication of this ordinance will be paid by city and reimbursed to city by company.

2.5 Dispute Resolution. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in district court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

2.6 Continuation Of Franchise. If this franchise expires and the city and the company are unable to agree on the terms of a new franchise, this franchise, including any amendments thereto, will remain in effect until a new franchise is agreed upon, or until 90 days after the city or the company serves written notice to the other party of their intention to allow the franchise agreement to expire, but in no event shall the franchise continue for more than one (1) year after expiration of the 20-year term set forth in section 2.1.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1 Location Of Facilities. Electric facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over public ways and so as not to disrupt normal operation of any city utility system previously installed therein. Electric facilities shall be located on public grounds as determined by the city. Company's construction, reconstruction, operation, repair, maintenance and location of electric facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the city to the extent not inconsistent with the terms of this franchise agreement. Under this franchise agreement, the city does not relinquish its police power or regulatory authority and the company does not relinquish its eminent domain authority.

3.2 Field Locations. Company shall provide field locations for its underground electric facilities within city consistent with the requirements of Minnesota statutes, chapter 216D.

3.3 Street Openings. Company shall not open or disturb any public way or public ground for any purpose without first having obtained a permit from the city, if required by a separate ordinance, for which the city may impose a reasonable fee. Permit conditions imposed on company shall not be more burdensome than those imposed on other private, non-city owned utilities for similar facilities or work. Company may, however, open and disturb any public way or public ground without permission from the city where an emergency exists requiring the immediate repair of electric facilities. In such event company shall notify the city by telephone to the office designated by the city as soon as practicable. Not later than the second working day thereafter, company shall obtain any required permits and pay any required fees.

3.4 Restoration. After undertaking any work requiring the opening of any public way or public ground, company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for two years thereafter. The work shall be completed as promptly as weather permits, and if company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the public way or public ground in the said condition, the city shall have, after demand to company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of company. Company shall pay to the city the cost of such work done for or performed by the city. This remedy shall be in addition to any other remedy available to the city for noncompliance with this section 3.4, but the city hereby waives any requirement for company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the city, of a person or entity obtaining the city's permission to install, replace or maintain facilities in a public way.

3.5 Avoid Damage To Electric Facilities. Nothing in this ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging electric facilities while performing any activity.

3.6 Notice Of Improvements. The city must give company reasonable notice of plans for improvements to public ways or public ground where the city has reason to believe that electric facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the public ways and public grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the city will start the work, and (v) if more than one public way or public ground is involved, the order in which the work is to proceed. The notice must be given to company a sufficient length of time in advance of the actual commencement of the work to permit company to make any necessary additions, alterations or repairs to its electric facilities.

3.7 Shared Use Of Poles. Company shall make space available on its poles or towers for city fire, water utility, police or other city facilities whenever such use will not interfere with the use of such poles or towers by company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the city shall pay for any added cost incurred by company because of such use by city.

3.8 Abandoned Facilities. Company may abandon underground electric facilities in place, provided, at city's request, company will remove abandoned electric facilities interfering with a city improvement project, but only to the extent such electric facilities are uncovered by excavation as part of the city improvement project, and provided that the company shall perforate the bottom of all unremoved vaults and fill such vaults with sand until such time as their removal may be required under the provisions of this agreement. The company shall preserve and maintain records describing the location of all abandoned and retired facilities within the city, produce such records at the city's request, and comply with the location requirements of Minnesota statutes section 216D.04 with respect to all facilities, including abandoned and retired facilities.

3.9 Mapping Information. The company must promptly provide mapping information for any of its electric facilities in accordance with the requirements and Minnesota rules part 7819.4000 and 7819.4100.

SECTION 4. RELOCATIONS.

4.1 Relocation Of Electric Facilities In Public Ways. If the city determines to vacate a public way for a city improvement project, or at city's cost to grade, regrade, or change the line of any public way, or alter or reroute the traveled surface of any public way or construct or reconstruct any city utility system in any public way, it may order company to relocate its electric facilities located therein if relocation is reasonably necessary to accomplish the city's proposed public improvement. Except as provided in section 4.3, company shall relocate its electric facilities at its own expense. The city shall give company reasonable notice of plans to vacate for a city improvement project, or to grade, regrade, or change the line of any public way or to construct or reconstruct any city utility system. Nothing in this ordinance requires company to relocate, remove, replace or reconstruct at its own expense its electric facilities where such relocation, removal, replacement or reconstruction is: 1) solely for the convenience of the city and is not reasonably necessary for the construction or reconstruction of a public way or city utility system or other city improvement; or 2) reasonably necessary for the safety of the traveling public.

4.2 Relocation Of Electric Facilities In Public Ground. Except as provided in section 4.3 below, the city may require company at company's expense to relocate or remove its electric facilities from public ground upon a finding by city that the electric facilities have become or will become a substantial impairment to the existing or proposed public use of the public ground. Relocation shall comply with applicable city code ordinances and other applicable law.

4.3 Projects With Federal Funding. Relocation, removal, or rearrangement of any company electric facilities made necessary because of the extension into or through city of a federally-aided highway project shall be governed by the provisions of Minnesota statutes, section 161.46, as supplemented or amended. It is understood that the right herein granted to company is a valuable right. City shall not order company to remove or relocate its electric facilities when a public way is vacated, improved or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the federal government or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to company, but the city need not pay those portions of such for which reimbursement to it is not available.

4.4 Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the city and shall not be construed to waive or modify any rights obtained by company for installations within a company right-of-way acquired by easement or prescriptive right before the applicable public ground or public way was established, or company's rights under state or county permit.

SECTION 5. TREE TRIMMING.

Company may trim all trees and shrubs in the public ways and public grounds of city to the extent company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any electric facilities installed hereunder, provided that company shall save the city harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the city.

SECTION 6. INDEMNIFICATION.

6.1 Indemnity Of City. Company shall indemnify, keep and hold the city free and harmless from any and all liability on account of injury to or death of persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the electric facilities located in the public ways and public grounds. The city shall not be indemnified for losses or claims to the extent such loss was occasioned through its own negligence except for losses or claims arising out of or alleging the city's negligence as to the issuance of permits for,

or inspection of, company's plans or work.

6.2 Defense Of City. In the event a suit is brought against the city under circumstances where this agreement to indemnify applies, company at its sole cost and expense shall defend the city in such suit if written notice thereof is promptly given to company within a period wherein company is not prejudiced by lack of such notice. If company is required to indemnify and defend, it will thereafter have control of such litigation, but company may not settle such litigation without the consent of the city, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the city; and company, in defending any action on behalf of the city shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

SECTION 7. VACATION OF PUBLIC WAYS.

The city shall give company at least two weeks prior written notice of a proposed vacation of a public way. Except where required for a city improvement project, the vacation of any public way, after the installation of electric facilities, shall not operate to deprive company of its rights to operate and maintain such electric facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to company. In no case, however, shall city be liable to company for failure to specifically preserve a right-of-way under Minnesota statutes, section 160.29. In accordance with Minnesota rules, part 7819.3200, if the city's order directing vacation of the public way does not require relocation of the company's electric facilities to prevent interference with a current public improvement, the vacation proceedings shall not be deemed to deprive company of its right to continue to use the right-of-way of the former public way for its electric facilities installed prior to such order of vacation.

SECTION 8. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the city shall not affect the validity of this ordinance. Any governmental unit succeeding the city shall, without the consent of company, succeed to all of the rights and obligations of the city provided in this ordinance.

SECTION 9. FRANCHISE FEE.

9.1 Fee Schedule. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on company the city may impose on company a franchise fee not to exceed five percent (5%) of the company's gross revenues, as hereinafter defined, by collecting the amounts calculated on a flat fee per meter/per class, per/month basis as indicated in a fee schedule set forth in a separate ordinance from each customer in the designated customer classification for service at each and every customer location, based on a fee schedule form similar to the following:

Class	Fee Per Premises Per Month
Residential	$2.50
Sm C & I - non-dem	$5.00
Sm C & I - demand	$10.00
Large C & I	$50.00
Public street lighting	$2.00
Muni pumping N/D	n/a
Muni pumping dem	n/a

The franchise fee shall be paid based on the amount collected by Xcel Energy during complete billing months during the period for which payment is to be made by imposing a surcharge ("additional fee") equal to the designated franchise fee for the applicable customer classification in all customer billings for metered service in each class. The payment shall be paid four times a year and due the last business day of the calendar month following the end of each quarter (payments being due January 31, April 30, July 31, and October 31 during each calendar year).

In the event the city desires to collect a franchise fee as set forth above, the city shall give company notice of its intent to impose such a franchise fee by separate ordinance. Such notice shall set out the proposed franchise fee as a percentage of the company's gross revenues received from customers served within the city of Albertville and shall be calculated in an amount consistent with this franchise agreement. Upon receipt of such notice, company shall prepare and deliver to city within 30 days of such notice a fee schedule that imposes said franchise fee upon the classes of users set forth above. The annual franchise fee imposed upon each class of user as set forth in the fee schedule form shall, to the extent reasonably possible, not exceed the percentage being collected from any other class of user, provided, however, that the city and company may waive this provision by city approval of a fee schedule which collects a materially higher percentage from one or more classes of users than from others followed by the written consent of company to such fee schedule.

9.2 Separate Ordinance. The franchise fee shall be imposed by separate ordinance duly adopted by the city council, which ordinance shall not be adopted until at least thirty (30) days after written notice enclosing such proposed ordinance has been served upon the company by certified mail, and written acceptance or refusal to accept thereof by company. No action by the city to implement a separate ordinance will commence until this ordinance is effective.

9.3 Terms Defined. For the purpose of this section 9, the following definitions apply:

9.3.1 "Customer classification" shall refer to the classes listed on the fee schedule and as defined or determined in company's electric tariffs on file with the commission.

9.3.2 "Fee schedule" refers to the schedule in section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The fee schedule in the separate ordinance may include new customer classifications added by company to its electric tariffs after the effective date of this franchise agreement.

9.3.3 "Gross revenue" means all sums, excluding any surcharge or similar addition to the company's charges to customers for the purpose of reimbursing the company for the cost resulting from the franchise fee, received by the company from the sale of electricity to its retail customers within the corporate limits of the city.

9.4 Collection Of The Fee. The franchise fee shall be paid based on the amount collected by company during complete billing months during the period for which payment is to be made by imposing a surcharge ("additional fee") equal to the designated franchise fee for the applicable customer classification in all customer billings for metered service in each class. The payment shall be paid four times a year and due the last business day of the calendar month following the end of each quarter (payments being due January 31, April 30, July 31, and October 31 during each calendar year). The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually, and no change shall require a collection from any customer for metered service in excess of the amounts specifically permitted by this section 9. The time and manner of collecting the franchise fee is subject to the approval of the commission, which company agrees to use its best efforts to obtain. Said franchise fee shall be payable by company only to the extent company is legally able to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in company's applicable rate for electric service. Company may pay the city the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the city at

reasonable times provided that the city and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers, unless the city is required to disclose such information under applicable state or federal law.

9.5 Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against company unless it lawfully imposes and the city quarterly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from retail sales of electrical energy and natural gas within the city by any other retail energy supplier, provided that, as to such a supplier, the city has the authority to require a franchise fee or to impose a tax without abrogating an existing franchise agreement. Such requirement to impose an equivalent fee on any retail natural gas sales within the city shall not apply if the separate ordinance imposing the fee on company requires the city to use the franchise fee collected only for the following purposes:

i. Betterment of the electric facilities, including such betterments as placing the electric facilities underground or installing decorative lighting above ground;

ii. Paying any and all city electrical bills for traffic signals, street lights, security lighting, and ball field lighting;

iii. Paying any and all related electricity costs incurred by the city to operate city public facilities, including but not limited to city hall, public works, wastewater treatment facility, and fire hall.

9.6 Separate Accounting. In the event the city imposes a franchise fee upon the company without imposing a fee or tax of the same or greater equivalent amount on the receipts from retail sales of natural gas where the city otherwise has the legal authority to do so, the city shall separately account for all franchise fee proceeds received from the company, including all expenditures thereof.

SECTION 10. PROVISIONS OF ORDINANCE.

10.1 Severability. Every section, provision, or part of this ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other city ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.

10.2 Limitation On Applicability. This ordinance constitutes a franchise agreement between the city and company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

10.3 Waiver. This franchise agreement shall not be interpreted to constitute a waiver of the city of any of its defenses of immunity or limitations on liability under any applicable law, including, but not limited to the provisions of Minnesota statutes chapter 466.

SECTION 11. AMENDMENT PROCEDURE.

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this ordinance may be amended at any time by the city passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of company's written consent thereto with the city clerk within 90 days after the date of final passage by the city of the amendatory ordinance.

SECTION 12. PREVIOUS FRANCHISES SUPERSEDED.

This franchise supersedes any previous electric franchise granted to company or its predecessor.

Passed and approved: Tuesday, September 8, 2009.

—

Ron Klecker, Mayor

Attest:

Bridget Miller, City Clerk

Date Published: Monday, September 21, 2009

(Ord. 2009-015, 9-8-2009; amd. Ord. 2010-014, 1-3-2011; Ord. 2010-016, 1-3-2011, eff. 2-1-2011)

APPENDIX B-2

GAS FRANCHISES

ORDINANCE 2003-7

FRANCHISE ORDINANCE FOR CENTERPOINT ENERGY MINNEGASCO

CITY OF ALBERTVILLE, WRIGHT COUNTY, MINNESOTA

AN ORDINANCE GRANTING CENTERPOINT ENERGY MINNEGASCO, A NATURAL GAS UTILITY, A DIVISION OF CENTERPOINT ENERGY RESOURCES CORPORATION, A DELAWARE CORPORATION, ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN FACILITIES AND EQUIPMENT FOR THE TRANSPORTATION, DISTRIBUTION, MANUFACTURE AND SALE OF GAS ENERGY FOR PUBLIC AND PRIVATE USE AND TO USE THE PUBLIC GROUND OF THE CITY OF ALBERTVILLE, MINNESOTA, FOR SUCH PURPOSE; AND, PRESCRIBING CERTAIN TERMS AND CONDITIONS THEREOF.

THE CITY COUNCIL OF THE CITY OF ALBERTVILLE, WRIGHT COUNTY, MINNESOTA, ORDAINS:

SECTION 1. DEFINITIONS:

For purposes of this ordinance, the following terms shall have the following meanings:

CITY: The city of Albertville, County of Wright, state of Minnesota.

CITY UTILITY SYSTEM: Facilities used for providing public utility service owned or operated by city or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting, or other forms of energy.

COMMISSION: The Minnesota public utilities commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota public utilities commission.

COMPANY: CenterPoint Energy Minnegasco, a division of CenterPoint Energy Resources Corporation, its successors and assigns including all successors or assigns that own or operate any part or parts of the gas facilities subject to this franchise.

GAS FACILITIES: Gas transmission and distribution pipes, lines, ducts, fixtures, and all necessary equipment and appurtenances owned or operated by the company for the purpose of providing gas energy for public or private use.

NOTICE: A writing served by any party or parties on any other party or parties. Notice to company shall be mailed to CenterPoint Energy Minnegasco, V.P. Regulatory and Supply Service, 800 LaSalle Avenue, Minneapolis, MN 55402. Notice to the city shall be mailed to City Administrator, City of Albertville, 5975 Main Avenue NE, P.O. Box 9, Albertville, MN 55301-0009. Any party may change its respective address for the purpose of this ordinance by written notice to the other parties.

PUBLIC GROUND: Land owned or otherwise controlled by the city for park, open space or similar public purpose, which is held for use in common by the public.

PUBLIC WAY: Any street, alley or other public right of way within the city.

SECTION 2. ADOPTION OF FRANCHISE:

2.1: Grant Of Franchise: City hereby grants company, for a period of twenty (20) years from the date this ordinance is passed and approved by the city, the right to import, manufacture, distribute and sell gas for public and private use within and through the limits of the city as its boundaries now exist or as they may be extended in the future. For these purposes, company may construct, operate, repair and maintain gas facilities in, on, over, under and across the public ways and public grounds, subject to the provisions of this ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject however, to such reasonable regulations as may be imposed by the city pursuant to ordinance or permit requirements and to the further provisions of this franchise agreement.

2.2: Effective Date; Written Acceptance: This franchise shall be in force and effect from and after its passage of this ordinance and publication as required by law and its acceptance by company. If company does not file a written acceptance with the city within sixty (60) days after the date the city council adopts this ordinance, or otherwise informs the city, at any time, that the company does not accept this franchise, the city council by resolution may revoke this franchise or seek its enforcement in a court of competent jurisdiction.

2.3: Service And Gas Rates: The service to be provided and the rates to be charged by company for gas service in city are subject to the jurisdiction of the commission.

2.4: Publication Expense: Company shall pay the expense of publication of this ordinance.

2.5: Dispute Resolution: If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, either party may commence an action in district court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity.

2.6: Continuation Of Franchise: If the city and the company are unable to agree on the terms of a new franchise by the time this franchise expires, this franchise will remain in effect until a new franchise is agreed upon, or until ninety (90) days after the city or the company serves written notice to the other party of its intention to allow the franchise to expire. However, in no event shall this franchise continue for more than one year after expiration of the twenty (20) year term set forth in section 2.1.

SECTION 3. LOCATION, OTHER REGULATIONS:

3.1: Location Of Facilities: Gas facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over public ways and so as not to disrupt normal operation of any city utility system. Gas facilities may be located on public grounds as determined by the city. Company's construction, reconstruction, operation, repair, maintenance, location and relocation of gas facilities shall be subject to other reasonable regulations of the city consistent with authority granted the city to manage its public ways and public grounds under state law, to the extent not inconsistent with a specific term of this franchise.

3.2: Street Openings: Company shall not open or disturb the surface of any public way or public ground for any purpose without first having obtained a permit from the city, if required by a separate ordinance, for which the city may impose a reasonable fee. Permit conditions imposed on company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb the surface of any public way or public ground without a permit if i) an emergency exists requiring the immediate repair of gas facilities and ii) company gives telephone, email or similar notice to the city before commencement of the emergency repair, if reasonably possible. Within two (2) business days after commencing the repair, company shall apply for any required permits and pay any required fees.

3.3: Restoration: After undertaking any work requiring the opening of any public way, the company shall restore the public way in accordance with Minnesota rules part 7819.1100 and applicable city ordinances consistent with law. Company shall restore the public ground to as good a condition as formerly existed, and shall maintain the surface in good condition for six (6) months thereafter. All work shall be completed as promptly as weather permits, and if company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the public ground in the said condition, the city shall have, after demand to company to cure and the passage of a reasonable period of time following the demand, but not to exceed five (5) days, the right to make the restoration of the public ground at the expense of company. Company shall pay to the city the cost of such work done for or performed by the city. This remedy shall be in addition to any other remedy available to the city for noncompliance with this section 3.3. The company shall also post a construction performance bond consistent with the provisions of Minnesota rules parts 7819.3000 and 7819.0100, subpart 6.

3.4: Avoid Damage To Gas Facilities: The company must take reasonable measures to prevent the gas facilities from causing damage to persons or property. The company must take reasonable measures to protect the gas facilities from damage that could be inflicted on the facilities by persons, property, or the elements. The company must take protective measures when the city performs work near the gas facilities, if given reasonable notice by the city of such work prior to its commencement.

3.5: Notice Of Improvements To Streets: The city will give company reasonable written notice of plans for improvements to public ways where the city has reason to believe that gas facilities may affect or be affected by the improvement. The notice will contain: i) the nature and character of the

improvements, ii) the public ways upon which the improvements are to be made, iii) the extent of the improvements, iv) the time when the city will start the work, and v) if more than one public way is involved, the order in which the work is to proceed. The notice will be given to company a sufficient length of time, considering seasonal working conditions, in advance of the actual commencement of the work to permit company to make any additions, alterations or repairs to its gas facilities the company deems necessary.

3.6: Mapping Information: The company must promptly provide complete and accurate mapping information for any of its gas facilities in accordance with the requirements of Minnesota rules parts 7819.4000 and 7819.4100.

SECTION 4. RELOCATIONS:

4.1: Relocation In Public Ways: The company shall comply with Minnesota rules part 7819.3100 and applicable city ordinances consistent with law.

4.2: Relocation In Public Grounds: City may require company at company's expense to relocate or remove its gas facilities from public ground upon a finding by city that the gas facilities have become or will become a substantial impairment to the existing or proposed public use of the public ground. Relocation shall comply with applicable city ordinances consistent with law.

4.3: Projects With Federal Funding: Relocation, removal, or rearrangement of any company gas facilities made necessary because of the extension into or through city of a federally aided highway project shall be governed by the provisions of Minnesota statutes section 161.46.

SECTION 5. INDEMNIFICATION:

5.1: Indemnity Of City: Company shall indemnify and hold the city harmless from any and all liability, on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the gas facilities located in the public ways and public grounds. The city shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the city's negligence as to the issuance of permits for, or inspection of, company's plans or work.

5.2: Defense Of City: In the event a suit is brought against the city under circumstances where this agreement to indemnify applies, company at its sole cost and expense shall defend the city in such suit if written notice thereof is promptly given to company within a period wherein company is not prejudiced by lack of such notice. If company is required to indemnify and defend, it will thereafter have control of such litigation, but company may not settle such litigation without the consent of the city, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the city. The company, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf. This franchise agreement shall not be interpreted to constitute a waiver by the city of any of its defenses of immunity or limitations on liability under Minnesota statutes, chapter 466.

SECTION 6. VACATION OF PUBLIC WAYS:

The city shall give company at least two (2) weeks prior written notice of a proposed vacation of a public way. The city and the company shall comply with Minnesota rules 7819.3200 and applicable ordinances consistent with law.

SECTION 7. CHANGE IN FORM OF GOVERNMENT:

Any change in the form of government of the city shall not affect the validity of this ordinance. Any governmental unit succeeding the city shall, without the consent of company, succeed to all of the rights and obligations of the city provided in this ordinance.

SECTION 8. FRANCHISE FEE:

8.1: Form: During the term of the franchise hereby granted, and in addition to permit fees being imposed or that the city has a right to impose, the city may charge the company a franchise fee. The fee may be i) a percentage of gross revenues received by the company for its operations within the city, or ii) a flat fee per customer based on metered service to retail customers within the city or on some other similar basis, or iii) a fee based on units of energy delivered to any class of retail customers within the corporate limits of the city. The method of imposing the franchise fee, the percentage of revenue rate, or the flat rate based on metered service may differ for each customer class or combine the methods described in (i) - (iii) above in assessing the fee. The city shall seek to use a formula that provides a stable and predictable amount of fees, without placing the company at a competitive disadvantage. If the company claims that the city required fee formula is discriminatory or otherwise places the company at a competitive disadvantage, the company shall provide a formula that will produce a substantially similar fee amount to the city and reimburse the city's reasonable fees and costs in reviewing and implementing the formula. The city will attempt to accommodate the company but is under no franchise obligation to adopt the company-proposed franchise fee formula and each review will not delay the implementation of the city-imposed fee.

8.2: Separate Ordinance: The franchise fee shall be imposed by separate ordinance duly adopted by the city council, which ordinance shall not be adopted until at least thirty (30) days after written notice enclosing such proposed ordinance has been served upon the company.

The fee shall become effective ten (10) days after written notice enclosing such adopted ordinance has been served upon the company by certified mail.

8.3: Condition Of Fee: The separate ordinance imposing the fee shall not be effective against the company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of gas energy within the city by any other gas energy supplier, provided that, as to such supplier, the city has the authority or contractual right to require a franchise fee or similar fee through a previously agreed upon franchise.

8.4: Collection Of Fee: The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed from time to time, however, the change shall meet the same notice requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the company may legally charge to its customers prior to payment to the city. Such fee is subject to subsequent reductions to account for uncollectibles and customer refunds incurred by the company. The company agrees to make available for inspection by the city at reasonable times all records necessary to audit the company's determination of the franchise fee payments.

8.5: Continuation Of Franchise Fee: If this franchise expires and the city and the company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the city at the time this franchise expires, will remain in effect until a new franchise is agreed upon.

SECTION 9. ABANDONED FACILITIES:

The company shall comply with city ordinances, Minnesota statutes section 216D.01 et seq., and Minnesota rules part 78 as they may be amended from time to time. The company shall maintain records describing the exact location of all abandoned and retired facilities within the city, produce such records at the city's request and comply with the location requirements of section 216D.04 with respect to all facilities, including abandoned and retired facilities.

SECTION 10. PROVISIONS OF ORDINANCE:

10.1: Severability: Every section, provision, or part of this ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other city ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.

10.2: Limitation On Applicability: This ordinance constitutes a franchise agreement between the city and company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 11. AMENDMENT PROCEDURE:

Either party to this franchise agreement may at any time propose that the agreement be amended. This ordinance may be amended at any time by the city passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of company's written consent thereto with the city clerk within sixty (60) days after the effective date of the amendatory ordinance.

Passed and approved: _____, 2003.

ss/Don R. Peterson

Mayor of the City Of Albertville, Minnesota

Attest:

ss/Linda Goeb

City Administrator, Albertville, Minnesota

ORDINANCE NO. 2023-02

CENTERPOINT ENERGY GAS FRANCHISE ORDINANCE

AN ORDINANCE GRANTING CENTERPOINT ENERGY RESOURCES CORP. d/b/a CENTERPOINT ENERGY MINNESOTA GAS ("CENTERPOINT ENERGY"), ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN FACILITIES AND EQUIPMENT FOR THE TRANSPORTATION, DISTRIBUTION, MANUFACTURE AND SALE OF GAS ENERGY FOR PUBLIC AND PRIVATE USE AND TO USE THE PUBLIC WAYS AND GROUNDS OF THE CITY OF ALBERTVILLE, WRIGHT COUNTY, MINNESOTA, FOR SUCH PURPOSE; AND, PRESCRIBING CERTAIN TERMS AND CONDITIONS THEREOF

The City Council Of The City Of Albertville, Wright County, Minnesota, Ordains:

SECTION 1. DEFINITIONS

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City: The City of Albertville, County of Wright, State of Minnesota.

City Utility System: Facilities used for providing public utility service owned or operated by City or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting, or other forms of energy.

Commission: The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota Public Utilities Commission.

Company: CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas its successors and assigns including all successors or assigns that own or operate any part or parts of the Gas Facilities subject to this Franchise.

Gas Energy: Gas Energy includes both retail and wholesale natural, manufactured or mixed gas, but excludes propane gas that is sold within the City in portable tanks or delivered by truck

and excludes motor vehicle fuels (gasolines and diesel fuels) transported into the City by truck.

Gas Facilities: Gas transmission and distribution pipes, lines, ducts, fixtures and all necessary equipment and appurtenances owned or operated by the Company for the purpose of providing Gas Energy for retail or wholesale use.

Notice: A writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 505 Nicollet Mall, Minneapolis, Minnesota, 55402. Notice to the City shall be mailed to Albertville City Clerk, 5959 Main Street, P.O. Box 9, Albertville, MN 55301. Any party may change its respective address for the purpose of this Ordinance by written Notice to the other parties.

Ordinance: This gas franchise ordinance, also referred to as the Franchise.

Public Way: Any highway, street, alley or other public right-of-way within the City.

Public Ground: Land owned or otherwise controlled by the City for utility easements, park, trail, walkway, open space or other public property,

which is held for use in common by the public or for public benefit.

SECTION 2. ADOPTION OF FRANCHISE

2.1 Grant of Franchise. City hereby grants Company, for a period of twenty (20) years from the date this Ordinance is passed and approved by the City, the right to import, manufacture, distribute and sell Gas Energy for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future and also the right to transport Gas Energy through the limits of the City for use outside of the City limits. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Ways and Public Grounds, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to a public right-of-way ordinance or permit requirements adopted consistent with state law.

2.2 Effective Date; Written Acceptance. This Franchise shall be in force and effect from and after the passage of this Ordinance and publication as required by law and its acceptance in writing by Company.

2.3. Service and Gas Rates. The terms and conditions of service and the rates to be charged by Company for Gas Energy in City are subject to the exclusive jurisdiction of the Commission.

2.4. Publication Expense. Company shall pay the expense of publication of this Ordinance.

2.5. Dispute Resolution. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute with the selected mediator, either party may commence an action in District Court to interpret and enforce this Franchise or for such other relief as may be permitted by law or equity.

2.6. Continuation of Franchise. If the City and the Company are unable to agree on the terms of a new franchise by the time this Franchise expires, this Franchise will remain in effect until a new franchise is agreed upon, or until ninety (90) days after the City or the Company serves written Notice to the other party of its intention to allow Franchise to expire.

SECTION 3. LOCATION, OTHER REGULATIONS

3.1. Location of Facilities. Gas Facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System. Gas Facilities may be located on Public Grounds in a location to be determined by the City. The location and relocation of Gas Facilities shall be subject to reasonable regulations of the City consistent with authority granted the City to manage its Public Ways and Public Grounds under state law, to the extent not inconsistent with a specific term of this Franchise.

3.2. Street Openings. Company shall not open or disturb the surface of any Public Way or Public Ground for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other public right-of-way users for similar facilities or work. Company may, however, open and disturb the surface of any Public Way or Public Ground without a permit if (i) an emergency exists requiring the immediate repair of Gas Facilities and (ii) Company gives telephone, email or similar Notice to the City before commencement of the emergency repair, if reasonably possible. Within two (2) business days after commencing the repair, Company shall apply for any required permits and pay any required fees.

3.3. Restoration. After undertaking any work requiring the opening of any Public Way or Public Ground, the Company shall restore the Public Ways or Public Grounds in accordance with Minnesota Rules, 7819.1100. Company shall restore the Public Ground to as good a condition as formerly existed, and shall maintain the surface in good condition for six (6) months thereafter. All work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five (5) days, the right to make the restoration of the Public Ways or Public Grounds at the expense of Company provided. Company shall pay to the City the cost of such work done for or performed by the City. The Company shall not be required to post a construction performance bond.

3.4. Avoid Damage to Gas Facilities. The Company must take reasonable measures to prevent the Gas Facilities from causing damage to persons or property. The Company must take reasonable measures to protect the Gas Facilities from damage that could be inflicted on the Gas Facilities by persons, property or the elements. The City shall comply with Minnesota Statute § 216D.05 when it performs excavation work near the Gas Facilities.

3.5. Notice of Improvements to Streets. The City will give Company reasonable written Notice of plans for improvements to Public Ways and Public Grounds where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The Notice will contain: (i) the nature and character of the improvements, (ii) the Public Ways or Public Grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way or Public Grounds is involved, the order in which the work is to proceed. The Notice will be given to Company a sufficient length of time, considering seasonal working conditions, in advance of the actual commencement of the work to permit Company to make any additions, alterations or repairs to its Gas Facilities Company deems necessary.

3.6 Mapping Information. If requested by City, Company must promptly provide complete and accurate mapping information for any of its Gas Facilities in accordance with the requirements of Minnesota Rules 7819.4000 and 7819.4100.

SECTION 4. RELOCATIONS

4.1. Relocation in Public Ways. The Company and City shall comply with the provisions of Minnesota Rules 7819.3100 and applicable city ordinances consistent with law with respect to requests for the Company to relocate Gas Facilities located in Public Ways.

4.2 Relocation in Public Grounds. City may require Company at Company's expense to relocate or remove its Gas Facilities from Public Grounds upon a finding by City that the Gas Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Grounds. Nothing in this Section 4.2 shall be construed so as to invalidate or impair any existing Company easements in Public Grounds. If Company is required to relocate from an existing Company easement, City shall provide an equivalent easement for the relocated facilities.

4.3. Projects with Federal Funding. Relocation, removal or rearrangement of any Company Gas Facilities made necessary because of the extension into or through City of a federally aided highway project shall be governed by the provisions of Minnesota Statutes §§ 161.45 and 161.46.

SECTION 5. INDEMNIFICATION

5.1. Indemnity of City. Company shall indemnify and hold the City harmless from any and all liability, on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits or the operation of the Gas Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence or otherwise wrongful act or omission except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work.

5.2. Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written Notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such Notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City. The Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. This Franchise agreement shall not be interpreted to constitute a waiver by the City of any of its defenses of immunity or limitations on liability under Minnesota Statutes, Chapter 466.

SECTION 6. VACATION OF PUBLIC WAYS AND PUBLIC GROUNDS

The City shall give Company at least two weeks prior written Notice of a proposed vacation of a Public Ways or Public Grounds. The City and the Company shall comply with Minnesota Rules 7819.3100 and 7819.3200 with respect to any request for vacation.

SECTION 7. CHANGE IN FORM OF GOVERNMENT

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 8. FRANCHISE FEE

8.1. Form. During the term of the franchise hereby granted, and in addition to permit fees being imposed or that the City has a right to impose, the City may charge the Company a franchise fee. The fee may be i) a percentage of gross revenues received by the company for its operations within the city, or ii) a flat fee per customer based on metered service to retail customers within the city or on some other similar basis, or iii) a fee based on units of energy delivered to any class of retail customers within the corporate limits of the city. The method of imposing the franchise fee, the percentage of revenue rate, or the flat rate based on metered service may differ for each customer class or combine the methods described in (i) - (iii) above in assessing the fee. The City shall seek to use a formula that provides a stable and predictable amount of fees, without placing the company at a competitive disadvantage. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City and be consistent with the Minnesota Public Utility Commission's March 23, 2011, Order establishing franchise fee filing requirements in Docket No. E,G999/CI-09-970. If the Company claims that the City required fee formula is discriminatory or otherwise places the Company at a competitive disadvantage, the Company shall provide a formula that will produce a substantially similar fee amount to the City and reimburse the City's reasonable fees and costs in reviewing and implementing the formula. The City will attempt to accommodate the Company but is under no franchise obligation to adopt the Company-proposed franchise fee formula and each review will not delay the implementation of the City-imposed fee.

8.2. Separate Ordinance. The franchise fee shall be imposed by separate ordinance duly adopted by the City Council. The effective date of the franchise fee ordinance shall be no less than ninety (90) days after written Notice enclosing a copy of the duly adopted and approved ordinance has been served upon the Company by Certified mail. The fee shall become effective ninety (90) days after written notice enclosing such adopted ordinance has been served upon the Company by certified mail.

8.3. Condition of Fee. The separate ordinance imposing the fee shall not be effective against the Company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of Gas Energy within the City by any other energy supplier, provided that, as to such supplier, the City has the authority or contractual right to require a franchise fee or similar fee through a previously agreed-upon franchise.

8.4. Collection of Fee. The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed from time to time, however, the change shall meet the same Notice and acceptance requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City and be consistent with Minnesota Public Utility Commission's March 23, 2011, Order establishing franchise fee filing requirements in Docket No. E,G999/CI-09-970. Such fee is subject to subsequent reductions to account for uncollectibles and customer refunds incurred by the Company. The Company shall not be responsible to pay City fees that Company is unable to collect under Commission rules or order. Company agrees to make available for inspection by City at reasonable times all records necessary to audit Company's determination of the franchise fee payments.

8.5. Continuation of Franchise Fee. If this franchise expires and the City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the City at the time this franchise expires, will remain in effect until a new franchise is agreed upon.

SECTION 9. ABANDONED FACILITIES

The Company shall comply with Minnesota Rules, Part 7819.3300, as it may be amended from time to time with respect to abandoned facilities in Public Ways. The Company shall maintain records describing the exact location of all abandoned and retired Gas Facilities within the Public Ways and Public Grounds, produce such records at the City's request and comply with the location requirements of Minnesota Statutes § 216D.04 with respect to all Gas Facilities located in Public Ways and Public Grounds.

SECTION 10. PROVISIONS OF ORDINANCE

10.1. Severability. Every section, provision or part of this Ordinance is declared separate from every other section, provision or part; and if any section, provision or part shall be held invalid, it shall not affect any other section, provision or part. Where a provision of any other City ordinance is inconsistent with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2. Limitation on Applicability. This Ordinance constitutes a franchise agreement between City and Company as the only parties. No provisions herein shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party

beneficiary of this Ordinance or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 11. AMENDMENT PROCEDURE

Either party may propose at any time that this Franchise Ordinance be amended. This Franchise Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within ninety (90) days after the effective date of the amendatory ordinance.

SECTION 12. PAYMENT OF CITY'S COSTS RELATED TO FRANCHISE ORDINANCE.

The Company shall pay the City's reasonable publication costs related to the drafting, negotiation, passage and publication of this Franchise Ordinance. Such payment shall be made within 30 days of mailing of the invoice by the City.

Adopted by the City Council f the City of Albertville on this 6th day of March 2023.

/s/ Jillian Hendrickson

Jillian Hendrickson, Mayor

ATTEST:

/s/ Kristine A Luedke

Kristine A Luedke, City Clerk

APPENDIX B-3

CABLE COMMUNICATIONS FRANCHISES

ORDINANCE NO. 2019-01

CITY OF ALBERTVILLE

COUNTY OF WRIGHT

AN ORDINANCE GRANTING A FRANCHISE TO CC VIII OPERATING, LLC D/B/A CHARTER COMMUNICATIONS, TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF ALBERTVILLE, MINNESOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND PRESCRIBING MEASURES FOR THE VIOLATION OF ITS PROVISIONS.

The City Council of the City of Albertville ordains:

STATEMENT OF INTENT AND PURPOSE

A. The City of Albertville, pursuant to applicable law, is authorized to grant one or more non-exclusive Franchises to construct, operate, maintain, and reconstruct Cable Television Systems within the Franchise Area.

B. The City Council finds that the development of a Cable Television System has the potential of having great benefit and impact upon the residents of Albertville. Because of the complex and rapidly changing technology associated with cable television, the City Council further finds that the public convenience, safety, and general welfare can best be served by establishing regulatory powers vested in the City or its designees. It is the intent of this Franchise and subsequent amendments to provide for and specify the means to attain the best possible Cable Service for the public, and to grant CC VIII Operating, LLC d/b/a Charter Communications ("Grantee") a cable television Franchise pursuant to the terms and conditions of this Franchise.

FINDINGS

Upon review of the renewal request by Grantee, and as a result of a public hearing, the City Council makes the following findings:

I. Grantee's technical ability, legal qualifications, and operation of the System are adequate;

II. The Franchise complies with applicable federal and state law including but not limited to Minn. Stat. §238.01 et. seq., and;

III. The Franchise is non-exclusive.

SECTION 1. DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meanings ascribed to them by the Cable Communications Policy Act of 1984, as amended ("Cable Act") unless otherwise defined herein as may be amended from time to time by applicable law. "Herein," "hereof," and "herewith," refer to the entire Franchise. When not inconsistent with the context, words in the singular number include the plural number, and vice versa. The word "shall" is mandatory and not merely directory. The word "may" is directory and discretionary, not mandatory.

1.1 "Affiliate"

Any Person controlling, controlled by or under common control of Grantee.

1.2 (intentionally omitted)

1.3 (intentionally omitted)

1.4 "Bona Fide Offer"

A written offer to purchase the Cable System which has been accepted by Grantee subject to City's rights under this Franchise.

1.5 "Cable Act"

The Cable Communications Policy Act of 1984, as amended and as may be further amended from time to time, codified at 47 U.S.C. §521-611.

1.6 "Cable Service"

(i) The one-way transmission to Subscribers of video programming or other programming service; and (ii) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.7 "Cable Television System," "Cable System" or "System"

A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Franchise Area, but such term does not include:

A. A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

B. A facility that serves Subscribers without using any Public Rights-of-Way;

C. A facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201-226, except that such facility shall be considered a Cable System to the extent, pursuant to applicable federal law, such facility whether on a common carrier basis or otherwise is used in the transmission of video programming directly to Subscribers; or

D. A facility of any electric utility used solely for operating its electric utility system.

1.8 "Channel"

A portion of the electromagnetic spectrum which is used in a Cable System and which is capable of delivering one (1) television channel.

1.9 "City"

The City of Albertville, a municipal corporation in the State of Minnesota, acting by and through its City Council.

1.10 "City Council"

The City Council of Albertville, Minnesota.

1.11 "Class IV Channel"

A signaling path provided by a Cable System to transmit signals of any type from a Subscriber terminal to another point in the System.

1.12 "Complaint"

Any written inquiry, allegation, or assertion made by any Person related to Cable Service subject to the jurisdiction of the City.

1.13 "Controlling Interest"

Majority equity ownership of Grantee.

1.14 "Converter"

An electronic device which converts signals to a frequency acceptable to a Subscriber's television receiver and by an appropriate selector permits a Subscriber to view Cable Service Channels.

1.15 "Drop"

The cable that connects the ground block on a Subscriber's residence or business to the nearest distribution point of the System.

1.16 "Effective Date"

The date described in section 13.2 herein.

1.17 "FCC"

The Federal Communications Commission and its lawful agents and/or successor.

1.18 "Franchise"

This Franchise and the regulatory and contractual relationship established hereby.

1.19 "Franchise Area"

The area within the corporate boundaries of the City as now constituted or may in the future be constituted.

1.20 "Franchise Fee"

Any tax, fee, or assessment of any kind imposed by the City or other governmental entity on Grantee solely because of its status as such. The term "Franchise Fee" does not include: (i) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or Subscribers); (ii) capital costs which are required by the Franchise to be incurred by Grantee for construction of PEG Access facilities; (iii) requirements or charges incidental to the award or enforcement hereof, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or (iv) any fee imposed under Title 17 of the United States Code.

1.21 "Grantee"

CC VIII Operating, LLC d/b/a Charter Communications and its lawful successors, transferees, or assignees.

1.22 "Gross Revenues"

Any revenue, as determined in accordance with generally accepted accounting principles ("GAAP"), received by Grantee or any Affiliate of Grantee from the operation of the Cable System to provide Cable Service in the Franchise Area, including but not limited to, the lowest cost level of Service monthly fees, pay cable fees, installation and reconnection fees, leased Channel fees, converter rentals, and advertising revenues. The term does not include: (i) any revenue derived from the delivery of data or other telecommunications services; or (ii) taxes on services furnished by Grantee and imposed directly upon any Subscriber or user by federal, state, or local law and collected by Grantee on behalf of such governmental unit; (iii) programming revenues of any Affiliate or third party whose programming is carried on the System where such revenues are paid to said Affiliate or third party by the Grantee and recovered by the Grantee through charges to Subscribers that are included in Gross Revenues; and (iv) revenues of any Affiliate or third party from the sale of merchandise, including subscriptions to periodicals, as a result of or due to advertising on the System, so

long as all advertising and home shopping revenue received by the Grantee or its Affiliates are imputed to the Grantee and included in Gross Revenues. The term shall also not include fees for the sale, leasing or servicing of equipment and network capacity used solely for the provision of non-cable services (voice or data), tower rent, refunded deposits, bad debt, or taxes, fees, any PEG Fees or PEG Grants or assessments of general applicability assessed by a governmental authority provided, however, that franchise fees are included in "gross revenues" and are not such a tax, fee or assessment of general applicability. Discounts for Cable Services bundled or packaged with non-Cable Services shall be apportioned fairly to each service in accordance with GAAP.

1.23 "Installation"

The connection of the System from distribution point to the point of Subscriber connection, including Standard Installation and custom Installations.

1.24 "Lockout Device"

An optional mechanical or electrical accessory to a Subscriber's terminal which inhibits the viewing of a certain program or channel.

1.25 "Normal Business Hours"

"Normal Business Hours" must include some evening hours at least one (1) night per week, or some weekend hours. Cable System Normal Business Hours as defined herein shall be the definition set forth in 47 C.F.R. §76.309(d).

1.26 "Normal Operating Conditions"

Those service conditions which are within the reasonable control of Grantee. Conditions which are not within the reasonable control of Grantee include, but are not limited to, acts of God, natural disasters, civil emergencies, civil disturbances, power outages, acts of governmental or legislative bodies, the effect of which is to render Grantee's performance of its obligations under this Franchise illegal or commercially impractical, telephone network outages, severe or unusual weather conditions, and labor unrest or strikes. Conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay- per-view events, regular peak or seasonal demand periods, and maintenance or upgrade of the System. Normal Operating Conditions as defined herein shall be the definition set forth in 47 C.F.R. §76.309(d).

1.27 "Pay Television"

The delivery over the System of pay-per-Channel or pay-per- program audio-visual signals to Subscribers for a fee or charge.

1.28 "PEG Access"

Channel capacity designated, pursuant to the terms of applicable law and this Franchise, for non-commercial public, educational, or governmental use; and (ii) facilities and equipment necessary for the use of such Channel capacity in accordance with the terms of applicable law and this Franchise.

1.29 "Person"

Any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not.

1.30 "Rights-of-Way"

The surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, drive, way, or place, easement or right-of-way now or hereafter held by City or other land or waterway, dedicated or commonly used for utility purposes, including general or utility easements in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City.

1.31 "Service Interruption"

The loss of picture or sound on one (1) or more Channels for at least twenty-four (24) consecutive hours.

1.32 "Standard Installation"

Any residential Installation which can be completed using a Drop of one hundred twenty-five (125) feet or less.

1.33 "Subscriber"

Any Person in the City lawfully subscribing to a Cable Service provided by the Grantee by means of or in connection with the Cable System.

SECTION 2. GRANT OF AUTHORITY AND GENERAL PROVISIONS

2.1 Franchise Required

It shall be unlawful for any Person to provide Cable Service or to construct, operate, or maintain a Cable System in the Franchise Area without a Franchise.

2.2 Grant of Non-Exclusive Franchise

The City hereby grants to Grantee, on the terms and conditions contained herein, a non-exclusive Franchise to construct and operate a Cable System and offer Cable Service within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, operate, or retain in, on, over, under, upon, across, or along any Right-of-Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the maintenance and operation of the Cable System. Subject to the terms of Section 2.3 of this Agreement and Minn. Stat. §238.08, subd. 1, as may be amended from time to time, the City may grant a similar use of Public Rights-of-Ways to any Person at any time.

2.3 Additional Providers

A. The Franchise granted herein shall be nonexclusive.

B. The City acknowledges that, under Minn. Stat. §238.08, Subd. 1(b), it may only grant additional franchises to provide Cable Service within the City on terms and conditions no more favorable or less burdensome than those in this Franchise pertaining to: (1) the area served; (2) public, educational, or governmental access requirements; or (3) franchise fees. Additionally, and beyond the requirements of Minn. Stat. Section 238.08, the City agrees that Grantee's obligations under this Franchise with regard to complimentary services to public institutions, ROW access and responsibilities, penalties and security, sale or transfer of ownership, or any other material obligations shall not be more burdensome or less favorable than those imposed on any such competing provider.

C. If any other provider of Cable Services is lawfully authorized after the Effective Date of this Franchise to provide such services using facilities located wholly or partly in the Rights-of-Way of the City, the City shall, within thirty (30) days of a written request from Grantee, modify this Franchise to ensure that the obligations imposed by Section 2.3. B. have been met.

D. If the City fails to make modifications consistent with Section 2.3. B., Grantee shall have the right to initiate an action in the state or federal district court for breach of contract or other appropriate claims and seek any and all appropriate relief, including specific performance.

E. Nothing in this Franchise shall impair the right of the City or Grantee to seek other remedies available under law.

F. In the event City initiates the franchising process pursuant to Minn. Stat. §238.081, then the City shall notify Grantee in writing of (i) its intent to initiate the franchising process.

G. Grantee shall have the right to terminate this Franchise and operate the Cable System under the terms and conditions established by applicable state or federal law to the extent provided in any future amendment to such law.

2.4 Compliance with Applicable Law

This Franchise is a contract and the terms of this Franchise shall define the contractual rights and obligations of Grantee with respect to the provision of Cable Service and operation of the Cable System in City. The Grantee shall comply with the lawful, nondiscriminatory provisions of the City Code including any generally applicable requirements related to use of Rights-of- Way. Except as otherwise provided herein, this Franchise shall govern in the event of a conflict between the terms herein and the City Code. City reserves its rights to lawfully exercise all of its police powers or eminent domain powers and Grantee reserves all rights to challenge any such action as being beyond the City's lawful powers. Grantee's obligations herein shall at all times be subject to applicable law.

2.5 Franchise Term

The term of this Franchise shall commence on the Effective Date given in Section 13.2, and expire on January 6, 2034 ("Term").

2.6 Previous Franchises

Upon acceptance by Grantee as provided herein, this Franchise shall supersede and replace all previous ordinances, amendments, or agreements granting a Franchise to Grantee or any predecessor cable operator to own, operate, and maintain a Cable System within the Franchise Area and any ordinances, resolutions, or portions of ordinances and resolutions in conflict with this Franchise.

2.7 Rules of Grantee

The Grantee may promulgate such terms and conditions of service governing its business as may be reasonably necessary, provided, however, that any such terms and conditions shall fully comply with this Franchise and applicable law.

2.8 Territorial Area Involved

This Franchise authorizes Service throughout the City. Grantee shall construct and maintain the Cable System in a commercially reasonable manner and shall not abandon any portion of the System except as provided in Section 9.5 herein.

2.9 Non-Standard Installations

Grantee shall install and provide Cable Service to any Person requesting other than a Standard Installation at Grantee's published rate or charge, provided that Cable Service can be delivered over such connection in accordance with applicable FCC technical specifications.

2.10. Sales Procedures

The Grantee may market door-to-door during reasonable hours in accordance with applicable City Code, ordinances and regulations.

2.11 Drops to Public Buildings

A. Grantee shall provide the lowest cost level of Service to a single Drop, with one (1) Converter (if required to receive basic cable TV service) to one (1) outlet, free of charge, at each elementary and secondary school building that currently receives complimentary Cable Service as of the Effective Date of this Franchise, on the school's request on a voluntary basis for as long as Grantee participates in the industry supported Cable in the Classroom program.

B. Grantee shall provide (or continue to provide, if Grantee is currently providing such service), free of charge, the lowest cost level of Service, including one (1) Converter (if necessary to receive basic cable TV service), to one (1) Drop at each of the public buildings listed in Appendix A hereto.

SECTION 3. CONSTRUCTION STANDARDS

3.1 System Construction and Maintenance Requirements

A. Grantee shall strictly adhere to any generally applicable, non-discriminatory City ordinance governing use of Rights- of-Way.

B. Prior to any construction or maintenance of the System, Grantee shall obtain all necessary permits from the City and strictly adhere to all applicable laws.

C. Consistent with any generally applicable, non- discriminatory City ordinance governing use of Rights-of- Way, no poles, conduits, or other wireholding structures shall be erected or installed by Grantee on or along any Rights-of-Way without prior written approval from the City.

D. Nothing contained in this Franchise shall be construed to give Grantee the authority to enter upon private property in areas not encumbered with compatible use easements; without the permission of the property owner.

E. In those areas where telephone and electric service facilities are constructed or relocated underground, Grantee shall place and maintain the System underground in accordance with any generally applicable law. Certain of Grantee's equipment such as pedestals, amplifiers, power supplies, or similar equipment normally placed above- ground may remain above-ground provided that such equipment shall be fully enclosed or of a design, size and location so as not to be unsightly or unsafe.

F. In event Grantee must relocate its Cable System to accommodate any public or private project, such relocation, including responsibility for relocation costs, shall be completed in accordance with the Rights-of-Way ordinance.

3.2 Use of Rights-of-Way; Repair of Rights-of-Way and Property

A. Any public or private property disturbed or damaged by Grantee or its agents during construction, reconstruction, operation or maintenance of the System shall be promptly restored in accordance with the generally applicable provisions of the City's Rights-of-Way Ordinance. Restoration of Rights-of-Way and City property shall be approved by the City in accordance with the City's Rights- of-Way ordinance. The City may complete restoration, as necessary, in accordance with the Rights-of-Way ordinance.

B. Grantee shall furnish strand maps regarding the Cable System in accordance with the Rights-of-Way ordinance.

C. Grantee shall have the authority to trim any trees upon and overhanging Rights-of-Way to prevent tree branches from coming into contact

with the System.

D. Nothing contained herein shall relieve any Person from liability arising out of its failure to exercise reasonable care to avoid injuring Grantee's facilities.

3.3 Residential Developments

In cases where property is being subdivided for residential development, and utilities will be constructed underground in such development, the City will endeavor to require the developer to give notice to the Grantee at least thirty (30) days prior to the opening of any trench in such development for utility installation so that Grantee may seek to coordinate installation of the Cable System with other utilities.

3.4 Safety Requirements

Grantee shall employ ordinary and reasonable care in the operation and maintenance of the System, and shall maintain the Cable System in good condition, order and repair, and shall use accepted methods in accordance with industry standards to prevent damage, injury, or nuisance to the public. Grantee shall install and maintain its Cable System in substantial compliance with the requirements of the National Electric Safety Code (NESC) and generally law.

SECTION 4. DESIGN PROVISIONS

4.1 System Design

Grantee currently operates and maintains a 750 MHz hybrid fiber- coax Cable System providing at least one hundred ten (110) programmed video Channels.

4.2 Technical Standards

Grantee shall operate the Cable System in compliance with the FCC's technical standards in 47 C.F.R. §§76.601 to 76.630, as amended from time to time, which are expressly incorporated herein by reference.

4.3 Special Testing

The City may require special testing of the Cable System if it is the subject of alleged non-compliance herewith, unresolved complaints, or unresolved controversy. The tests shall be limited to the particular non-compliance, controversy, or complaint, and shall be scheduled to minimize hardship or inconvenience to Grantee and Subscribers. Grantee shall be given notice of the problem and shall meet with the City to discuss the problem. If Grantee has not corrected the problem within thirty (30) days of its receipt of such notice or presented evidence that no such problem exists, the City may cause the tests to be conducted by a qualified engineer mutually-selected by the City and Grantee based on a mutually agreed upon scope of work. The City shall bear the reasonable costs if the testing demonstrates that the System is in compliance with the FCC technical performance standards set forth in this Franchise, and Grantee shall bear the reasonable costs if the testing demonstrates that the System is not in compliance with the FCC technical performance standards set forth in this Franchise.

SECTION 5. SERVICE PROVISIONS

5.1 Programming Decisions

Programming decisions are within the sole discretion of Grantee subject to applicable federal law, as may be amended from time to time. Grantee shall provide notice to the City and Subscribers regarding any programming or Channel changes in accordance with applicable law. Grantee shall make available at least the broad categories of programming set forth in Appendix B attached hereto on file in the City.

5.2 Regulation of Rates

A. The City may regulate rates for the provision of Cable Service and related equipment to the extent allowed under federal and state law.

B. A list of Subscriber rates and charges shall be maintained on file with the City, or available online on Grantee's website.

5.3 Sales Procedures

Grantee shall not use deceptive sales practices.

5.4 Cable Customer Service Standards

A. Grantee shall comply with the FCC's customer service standards (47 CFR §76.309) as may be modified by the requirements in this Section 5.4. In the event of a conflict between the provisions and any future amendments to the FCC's customer service standards, the FCC's customer service standards shall control.

B. Grantee shall maintain a toll-free or collect call telephone access line which shall be available to respond to Subscriber telephone inquiries twenty-four (24) hours per day, seven (7) days per week. Grantee shall maintain a repair service with trained technicians and Grantee shall respond to Subscriber Complaints or requests for service within twenty-four (24) hours after receipt of a Complaint or request. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Grantee representative on the next business day.

C. Under Normal Operating Conditions, a Subscriber shall receive a busy signal less than three percent (3%) of the time, and telephone answer time by a Subscriber service representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.

D. The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

5.5 Installations. Outages, and Service Calls Under Normal Operating Conditions, each of the following standards shall be met no less than ninety-five percent (95%) of the time, measured on a quarterly basis:

A. Standard Installations shall be performed within seven (7) business days after an order has been placed.

B. Grantee shall begin working on Service Interruptions promptly, and in no event later than twenty-four (24) hours after the Service Interruption becomes known. Grantee must begin actions to correct other service problems the next business day after notification of the problem.

C. At a Subscriber's request, the "appointment window" alternatives for Installations and service calls shall be within a four (4)-hour time block during Normal Business Hours. (Grantee may schedule service calls and Installations outside of Normal Business Hours for the express convenience of the Subscriber.)

D. Grantee may not cancel an appointment with a Subscriber after the close of business on the business day prior to the appointment.

E. If Grantee's representative is running late for a Subscriber appointment and will not be able to keep the appointment as scheduled, the Subscriber shall be contacted. The appointment shall be rescheduled, as necessary, at a time which is convenient for the Subscriber.

5.6 Communication Between Grantee and Subscribers

A. Grantee shall provide written information on each of the following topics at the time of Installation, at least annually to all Subscribers, and at any time upon request:

i. Products and services offered;

ii. Prices and options for programming services and conditions of subscription to programming and other services;

iii. Installation and service maintenance policies;

iv. Instructions on how to use the Cable Service;

v. Channel positions for programming carried on the System; and

vi. Billing and complaint procedures, including the address and telephone number of the City's cable office.

B. Grantee shall notify the City and Subscribers of any changes in rates, programming services, or Channel positions in accordance with applicable law.

5.7 Billing

Consistent with 47 CFR §76.1619, bills shall be clear, concise, and understandable; shall be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges; and shall clearly delineate all activity during the billing period, including optional charges, rebates, and credits. In case of a billing dispute, Grantee must respond to a Subscriber's Complaint within thirty (30) days.

5.8 Refunds

Refund checks shall be issued promptly, but no later than either:

A. The Subscriber's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier; or

B. If service is terminated, thirty (30) days following the return of the equipment supplied by Grantee.

5.9 Credits

Credits for service shall be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.

5.10 Service Calls

Upon request, Grantee shall provide the City with a summary of service calls, identifying the number, general nature and disposition of such calls. This summary shall be submitted to the City within thirty (30) days of its request. Service call records shall be maintained by the Grantee for a period of three (3) years.

5.11 Subscriber Contracts

Grantee shall file with the City a copy of any Subscriber contract utilized, or shall maintain a current version of any such contract on its website. If no written contract exists, Grantee shall file with the City a document completely and concisely stating the terms of the residential Subscriber contract offered to Subscribers, including the length of the Subscriber contract.

5.12 Emergency Alert System

Grantee shall provide emergency alert override capabilities in a manner consistent with the FCC's emergency alert system (`EAS') rules and consistent with any applicable state and regional EAS plans adopted in response thereto.

5.13 Additional Customer Service Requirements

The City may enact and enforce additional consumer protection laws or requirements to the extent not specifically preempted by applicable law.

SECTION 6. PEG ACCESS PROVISIONS

[Omitted]

SECTION 7. OPERATION AND ADMINISTRATION PROVISIONS

7.1 Franchise Fee

A. The City agrees to impose identical Franchise Fee obligations (including but not limited to the Franchise Fee percentage and the Gross Revenue definition on which the Franchise Fee is paid) on all competing providers of Service in the City. To the extent City fails to do so, Grantee shall have the right to pursue Franchise modification pursuant to Section 2.3 herein. If City and Grantee fail to agree on modifications pursuant to the process established in Section 2.3.C., Grantee shall have the right to eliminate or reduce any Franchise Fee obligations to an amount equivalent to that imposed on a competing provider to make Grantee's Franchise Fee financial obligations equivalent to that imposed on a competing provider.

B. Grantee shall pay to City a Franchise Fee equal to five percent (5%) of its Gross Revenues, within sixty (60) days of the end of each calendar quarter. Payments shall be accompanied by a completed Franchise Fee calculation worksheet in substantially the form attached hereto as Appendix C on file in the City, and shall be subject to audit and recomputation by the City. Acceptance of any payment shall not be construed as an accord by the City that the amount paid is in fact the correct amount.

C. Grantee shall pay interest on overdue Franchise Fee payments, and on payments to correct underpayment of Franchise Fees, in addition to the compensation due at an annual rate equal to the prime lending rate plus one and one-half percent (1-1/2%) computed from the due date until the date of payment.

7.2 Open Books and Records

Subject to the privacy provisions of the Cable Act, the City, at its sole cost and expense, may upon thirty (30) days prior written notice inspect all non-proprietary and non-confidential records, maps, accounting and financial statements, Complaint logs, performance test results, or similar materials reasonably necessary to monitor compliance with the terms hereof.

7.3 Additional Reports

Grantee shall submit to the City, within thirty (30) days of a written request, copies of reports and documents filed with the FCC, including any tests of System performance, to the extent permitted by Applicable Law. Grantee shall file with the City, within thirty (30) days of a written request, such

additional reports pertaining to the System only with respect to the System's operation, affairs, transactions, or property, as are mutually agreed upon and reasonably necessary for the administration and enforcement hereof. Upon request, Grantee shall file with the City an annual report which shall include a summary of the nature and number of Subscriber Complaints received by the City and forwarded to Grantee for resolution and the resolution of such Complaints.

7.4 Periodic Evaluation

A. The City may require evaluation sessions no more frequently than three times during the term of the Franchise. Topics at an evaluation session may include Channel capacity, System technical performance, programming, access, municipal uses of cable, Complaints, judicial rulings, FCC rulings, and other topics deemed relevant by City or Grantee.

B. During an evaluation session, Grantee shall cooperate with the City and shall provide, without cost to the City, such information and documents as the City may reasonably request and which are not proprietary in nature.

C. As a result of an evaluation session held pursuant to this section, the City and Grantee may mutually determine that a change in the terms hereof is appropriate, that the System or Franchise requirements should be updated or changed, and/or that additional services should be provided.

7.5 Administration of Franchise

Subject to applicable federal and state law, the City shall have continuing regulatory jurisdiction and supervision over the System and Grantee's operation thereof. The City Administrator shall be responsible for administering the Franchise and monitoring Grantee's compliance with its terms and conditions; provided however that the Council retains sole enforcement authority hereunder.

SECTION 8. GENERAL FINANCIAL AND INSURANCE PROVISIONS

8.1 Performance Bond

Within thirty (30) days of Grantee's execution of this Franchise Grantee shall provide Grantor with a Ten Thousand and No/100 ($10,000) performance bond in a form and with such sureties as are mutually acceptable to the Parties. The performance bond shall ensure compliance with the Franchise.

8.2 Performance Bond as Remedy

A. In the event this Franchise is canceled by reason of default of the Grantee or revoked, the City shall be entitled to collect from the performance bond that amount which is attributable to any damages sustained by the City pursuant to said default or revocation.

B. The rights reserved to the City with respect to the performance bond are in addition to all other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding, or exercise of a right with respect to the performance bond shall affect any other right the City may have.

8.3 Waiver

At any time during the term of Franchise, the City may waive the requirements set forth in Section 8.1 and/or 8.2 of this Franchise.

8.4 Reserved

8.5 Liquidated Damages

Upon discovery of a material violation of this Franchise, the City shall notify Grantee thereof in writing pursuant to Section 12.15 herein, and Grantee shall have the opportunity to cure or dispute the violation as provided in Section 9.2 herein.

8.6 Indemnification of the City

A. Except as otherwise provided herein, Grantee shall indemnify, defend and hold harmless the City and all its officers, employees, agents, and representatives for all damages and penalties resulting from the actions and omissions of Grantee, its officers, employees, or agents, and subcontractors of Grantee and said subcontractor's officers, employees, or agents, except with respect to any claim caused by or arising from, in whole or in part, the acts or omissions of the City, its officers, boards, commissions, agents, and employees. These damages and penalties shall include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, errors and omissions, theft, fire, and all other damages arising out of the construction, operation, maintenance, or reconstruction of the System authorized herein caused by the Grantee whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise. Nothing in this provision shall exculpate the City's malfeasance, negligence, or violation of law.

B. In order for City to be indemnified, defended and held harmless, City must promptly notify Grantee of any claim or legal proceeding subject to indemnification and defense, fully cooperate in Grantee's defense of such claim or proceeding, and afford Grantee the opportunity to participate in any compromise, settlement, or other disposition of any such claim or proceeding.

8.7 Liability Insurance

A. Throughout the term of this Franchise, Grantee shall maintain a policy of liability insurance covering Grantee and the City, its officers, directors, boards, commissions, elected officials and employees with regard to all damages mentioned in section 8.6(A), in the minimum amounts of:

Commercial General Liability for Bodily Injury, Death and Property Damage in the amount of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) aggregate of which limits may be satisfied by an Umbrella Liability Policy.

An umbrella policy in the amount of One Million Dollars ($1,000,000) per occurrence.

B. Grantee shall provide a certificate of insurance evidencing any required Worker's Compensation insurance coverage.

C. Upon the effective date of this Franchise, Grantee shall furnish to the City certificates of insurance evidencing the required coverage.

D. The City shall be additionally insured and Grantee's carrier will endeavor to provide prior notice of cancellation. Cancellation notice will be provided for any reason other than non-payment of premium and material alteration and requires the City to provide the Grantee a valid contact name and e-mail address (with any changes to the contact name or e-mail address being the responsibility of the City).

SECTION 9. REVOCATION OR TRANSFER OF FRANCHISE

9.1 Notice of Violation

If the City believes Grantee is not in compliance with the material terms hereof, it shall notify Grantee in writing of the nature of the perceived default.

9.2 Grantee's Right to Cure or Respond

Grantee shall have thirty (30) days from receipt of such notice to:

A. Respond to the City contesting the assertion of default. Such notice shall specify with particularity the matters disputed by Grantee and shall toll as provided in the running of the cure period and the accrual of liquidated damages provided herein until completion of a hearing required by Section 9.3 herein;

B. Cure such default, or;

C. Initiate reasonable steps to remedy such default and notify the City of such steps and the projected completion date.

9.3 Public Hearing; Liquidated Damages

If Grantee contests the violation, the City shall schedule a public hearing to evaluate the disputed violation within six (6) months of the Grantee's response contesting the violation. The City shall give Grantee at least twenty (20) days' written notice of the time and place of the hearing, and shall give Grantee an opportunity to be heard. At the conclusion of the hearing, the City shall determine if Grantee has violated the Franchise. Such determination shall be in writing.

A. If the City finds a material, uncorrected violation, the City may impose liquidated damages in the maximum amount of Two Hundred Dollars ($200) for each violation. Liquidated damages may not exceed $10,000 in a calendar year.

B. In the event the City finds that no material violation occurred or that Grantee has corrected the violation, no liquidated damages shall be imposed.

9.4 Revocation

If the City wishes to consider revocation of the Franchise at the hearing pursuant to Section 9.3, the City shall provide specific written notice of its intent to revoke the Franchise on the basis of one or more instances of substantial noncompliance with a material provision of the Franchise which Grantee has failed to cure. The notice shall set forth the exact nature of the noncompliance. The City shall ensure that the hearing afforded in accordance with Section 9.3 herein is recorded such that either party may prepare a transcript as desired. The City shall further give Grantee the opportunity to present evidence and question and cross-examine witnesses. If the City determines that Grantee is in default of any material provision of this Franchise, the City may revoke the Franchise. The Grantee may appeal such determination to any court of competent jurisdiction, and may continue to operate the Cable System until all legal appeals procedures have been exhausted.

9.5 Abandonment of System

A. Grantee may not abandon the System or any portion thereof except on three (3) months' written notice to the City. The Grantee shall be liable to the City for the full amount of any damages or losses incurred by the City as result of abandonment.

B. Except for force majeure events, or unless permission to abandon the System is granted by the City, or unless otherwise provided herein, City may provide written notice requiring Grantee to remove all or any portion of the System from all Rights of Way in City associated solely with the provision of Cable Service within two (2) years of receipt of written notice; provided, however, that if Grantee is providing services other than Cable Services or pursuant to Minnesota Statutes, Section 237.01 et seq., City shall not require the removal of the System. In removing its facilities, Grantee shall not materially interfere with any utility wires, poles, or attachments. The City may inspect and approve the condition of the Rights-of-Way, cables, wires, attachments, and poles prior to and after removal. The liability, indemnity, security fund, and insurance provisions hereof shall continue in full force and effect during the period of removal and until full compliance by Grantee with the terms and conditions of this section.

C. If Grantee discontinues its use of any property of Grantee in the Franchise Area for a continuous period of twelve (12) months, it shall be deemed to have abandoned such property.

9.6 Removal After Revocation or Termination

A. Subject to applicable federal, state, and local law, upon revocation of the Franchise or abandonment of the System, the City may require Grantee to remove, at Grantee's expense, any portion of the System from the Rights-of-Way. The provisions of Section 9.5(B) shall apply to such removal.

B. Subject to applicable law, if Grantee has failed to commence removal of the System, or such part thereof as was designated by the City within two (2) years of the City's demand for removal, the City may:

i. Declare all right, title, and interest to the System to be in the City or its designee with all rights of ownership including, but not limited to, the right to operate or transfer the System; or

ii. Declare the System abandoned and cause the System, or such part thereof as the City shall designate, to be removed at Grantee's cost. The reasonable cost of said removal shall be recoverable from the security fund and indemnity provisions of this Franchise or from Grantee directly.

C. Nothing herein shall be deemed to require Grantee to remove any portion of the System which is used to provide services other than Cable Service.

9.7 City's Right to Purchase System

The City shall have a right of first refusal of any Bona Fide Offer to Grantee to purchase the System. Within sixty (60) days of the City's receipt of a copy of a Bona Fide Offer, it shall notify Grantee of its decision whether to purchase the System from Grantee on the terms and conditions of the Bona Fide Offer.

9.8 Sale or Transfer of Franchise

A. If the City does not exercise its right of first refusal to purchase the System pursuant to 9.7, Grantee nevertheless shall not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, either by forced or involuntary sale; or by ordinary sale, consolidation, or otherwise, this Franchise or the Cable System or any of the rights or privileges under the Franchise, without the prior consent of the City Council which consent shall not be unreasonably denied, conditioned, or delayed and may be denied only upon a good faith finding by the City that the proposed transferee lacks the legal, technical or financial qualifications to perform its obligations under this Franchise.

No consent shall be required for sales of property or equipment in the ordinary course of business or for a transfer in trust, mortgage, or other instrument of hypothecation, in whole or in part, to secure an indebtedness, or for a transfer to an entity controlling, controlled by, or under common control with Grantee.

B. Except as specifically excluded in section 9.8(A), the following events shall be deemed a sale, assignment, or other transfer of the Franchise or Cable System requiring the City's consent: (i) the sale, assignment, or other transfer of all or a majority of Grantee's assets; (ii) the sale, assignment, or other transfer of capital stock or partnership, membership, or other equity interests in Grantee by one (1) or more of its existing shareholders, partners, members, or other equity owners so as to create a new Controlling Interest in Grantee; (iii) the issuance of additional capital stock or partnership, membership, or other equity interest by Grantee so as to create a new Controlling Interest in Grantee; and (iv) the entry by

Grantee into an agreement with respect to the management or operation of Grantee or the System, by a party other than Grantee.

C. In the case of any sale or transfer of ownership of the Franchise or Cable System, the City shall have one hundred twenty (120) days to act upon any request for approval of such sale or transfer, including the consideration of any information required by FCC regulations and the financial information necessary to determine whether the proposed transferee has the financial ability to operate the System in compliance with this Franchise. The City shall also comply with applicable state and federal law. If Grantee fails to provide the City with all required information, the City may extend the one hundred twenty (120)-day review in accordance with federal law. If the City fails to render a final decision on the request within one hundred twenty (120) days of receipt of a transfer application, or within such additional time as may be provided by federal law, the request shall be deemed granted unless Grantee and the City agree otherwise.

D. Any financial institution having a pledge of Grantee's assets for the advancement of money for the construction of facilities or the operation of the Franchise may, upon Grantee's default in its financial obligations, notify the City that it or its designee acceptable to the City will take control of and operate the System. The financial institution may petition the City for consent to transfer the Franchise to another cable operator.

SECTION 10. PROTECTION OF INDIVIDUAL RIGHTS

10.1 Discriminatory Practices Prohibited

Grantee shall comply with all applicable laws relating to nondiscrimination. Access to Cable Service shall not be denied to any group of potential residential Subscribers because of the income of the residents of the area in which such group resides.

10.2 Subscriber Privacy

A. No signals may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber unless done so in connection with an attempt to detect unauthorized reception of service. The request for such permission shall be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. No penalty shall apply to a Subscriber's revocation of or failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.

B. Grantee will comply with all federal, state, and local laws regarding privacy rights of Subscribers.

C. Written permission from the Subscriber shall not be required for System-wide or individually addressed electronic sweeps for the purpose of verifying System integrity, monitoring, billing, or collection information, or in connection with efforts to detect unauthorized reception of service.

SECTION 11. UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

11.1 Unauthorized Connections or Modifications Prohibited

Without the express consent of Grantee, it shall be unlawful for any Person, with the exception of law enforcement, to make or possess, or assist another Person in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically, or otherwise, with or to any segment of the System.

11.2 Removal or Destruction Prohibited

It shall be unlawful for any Person to willfully interfere, tamper with, remove, obstruct, or damage any part or segment of the System for any purpose whatsoever. Nothing in this Franchise relieves a Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities while performing work connected with grading, regrading, or changing the line of a street or public place or with the construction or reconstruction of a sewer or water system, provided, however, that Grantee's facilities have been installed in accordance with the City's Right of Way Ordinance. The City may, but shall not be obligated to, prosecute any violation of this Section 11.2.

11.3 Penalty

In addition to any other penalties provided for under federal and state law, any Person found guilty of violating this section shall, upon conviction thereof, be punished by a fine, not to exceed five hundred dollars ($500) or be imprisoned in jail for not more than three (3) months, or both. Each day of such violation constitutes a separate offense.

SECTION 12. MISCELLANEOUS PROVISIONS

12.1 Franchise Renewal

Any renewal of this Franchise shall be in accordance with applicable laws.

12.2 Work Performed by Others

The provisions of this Franchise shall apply to any subcontractor or others performing work or services pursuant hereto. Grantee shall provide the City with the name and address of any Person, other than Grantee, which performs substantial services for Grantee pursuant to this Franchise.

12.3 Amendment of Franchise

Grantee and the City may agree in writing to amend this Franchise following an evaluation and review session or at any other time if the City and Grantee agree that such an amendment will be in the public interest or if required due to changes in law. Any amendments hereto must be approved by the City Council.

12.4 Compliance with Federal, State, and Local Laws

The City and Grantee shall conform to applicable federal laws and regulations as they become effective. The City and Grantee shall comply with applicable state laws and rules not later than one (1) year after such laws or rules become effective, unless otherwise stated.

If any term, condition, or provision of this Franchise or the application thereof to any Person or circumstance shall be held to be invalid or unenforceable to any extent, the remainder hereof and the application of such term, condition, or provision to Persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all terms, provisions, and conditions hereof shall, in all other respects, continue to be effective so long as the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. If the law, rule, or regulation causing the invalidity or unenforceability is subsequently repealed, rescinded, amended, or otherwise changed so that the provision which had been held invalid or unenforceable is no longer in conflict therewith, the previously invalid provision shall thereupon return to full force and effect and be binding on Grantee and the City.

12.5 Nonenforcement by the City

Grantee shall not be relieved of its obligations to comply with the provisions of this Franchise by reason of any failure or delay of the City to enforce prompt compliance. Any waiver by the City of a breach or violation of any provision of this Franchise shall not operate or be construed as a waiver of any subsequent breach or violation.

12.6 Rights Cumulative

Except as otherwise provided in this Franchise, all rights and remedies given to the City by this Franchise shall be in addition to and cumulative of all other rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity, and such rights and remedies shall not be exclusive, but every right and remedy may be exercised from time to time and as often and in such order as may be deemed expedient by the City, and the exercise of one (1) or more rights or remedies shall not be deemed a waiver of any other right or remedy.

12.7 Reserved

12.8 Continuity of Service Mandatory

Upon expiration or the lawful termination of this Franchise, the City may request and Grantee may agree to continue to operate the System for not more than six (6) months after such termination. Upon such agreement, Grantee shall operate the System under the terms and conditions of this Franchise; provided, however, that neither party shall be deemed to waive any rights as a result of such continued operation. Subject to applicable law, in the event Grantee does not so operate the System, the City may take such steps as it deems necessary to assure continued service to Subscribers.

12.9 Force Majeure

In the event the performance of any obligation under this Franchise is prevented or impaired due to any cause not reasonably foreseeable or that is beyond the reasonable control of either party to this Franchise, such inability to perform shall be excused by the other party and shall not constitute a violation of any provision of this Franchise. Such causes shall include, but not be limited to, those listed in the definition of Normal Operating Conditions as set forth in section 1.26 as beyond the control of Grantee.

12.10 Captions

The captions to sections throughout this Franchise are intended solely to facilitate reading and reference and shall not affect the meaning or interpretation of this Franchise.

12.11 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to act nor shall act in any manner toward any Person which would indicate any such relationship.

12.12 Entire Agreement

This Franchise and all attachments represent the entire understanding and agreement between the City and Grantee and supersede all prior franchises and agreements between them.

Unless otherwise expressly provided herein, this Franchise and the attachments hereto may be modified only by an amendment adopted in accordance with section 12.3.

12.13 Interpretation

This Franchise shall be construed and enforced in accordance with the substantive laws of the state of Minnesota.

12.14 Calculation of Time

Where a period of time for the performance of any act, duty, matter, or payment required hereunder is prescribed herein, the time shall be computed so as to exclude the first day and include the last day of the prescribed period. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

12.15 Written Notice

All written notices, reports, or demands required hereunder shall be deemed given when delivered personally or upon receipt, after being deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City:	City Administrator City of Albertville 5959 Main Avenue PO Box 9 Albertville, MN 55301
If to Company:	Charter Communications 16900 Cedar Avenue S Rosemount, MN 55068 Attn: Senior Manager, Government Affairs
With copy to:	Charter Communications 601 Massachusetts Ave NW, Suite 400W Washington, D.C. 20001 Attn: Vice President, Local Government Affairs and Franchising

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

12.16 Severability

If any provision herein is, for any reason, held invalid or unenforceable by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not invalidate the remaining provisions of this Franchise.

SECTION 13. PUBLICATION; ACCEPTANCE; EFFECTIVE DATE

13.1 Publication

This Franchise shall be published in accordance with applicable Minnesota law.

13.2 Acceptance

Grantee shall accept this Franchise by properly executing and acknowledging it, and delivering it to the City with any required insurance certificates

not previously delivered within sixty (60) days of its enactment by the City Council, unless the time for acceptance is extended by the City. Such acceptance by Grantee shall be deemed the date of the grant of this Franchise for all purposes ("Effective Date"). Upon such acceptance, Grantee shall be bound by the terms and conditions contained herein. If Grantee does not accept this Franchise, this Franchise and any and all rights previously granted to Grantee by the City shall be null and void.

SECTION 14. REPEALER

14.1 Repealer

Appendix B-3 of the Albertville City Code is hereby amended to delete ordinance 2003-9 in its entirety and such ordinance within Appendix B-3 of the City Code is hereby replaced with the text of this ordinance as adopted herein.

Passed and adopted this 7 day of January , 2019.

ATTEST: CITY OF ALBERTVILLE,

MINNESOTA

By: __ By: __

Its: City Clerk Its: Mayor

ACCEPTED: The undersigned Grantee accepts this Franchise and agrees to be bound by its terms and conditions.

Dated: __ By: __

APPENDIX A - LIST OF PUBLIC BUILDINGS

City Hall	5959 Main Ave NE
Fire Hall	11350 57th St NE
STMA Arena	5898 Lachman Ave NE
Park Depot	5803 Main Ave NE
FYCC Building	5975 Main Ave NE
STMA Primary School	5836 Main Ave NE
STMA Middle School West	11343 50th St NE
Public Works Building*	11822 63rd St NE
Wastewater Treatment Facility*	11728 63rd St NE

*These buildings shall only receive complimentary service if within one hundred fifty (150) feet of the Grantee's System, as measured from the closest technologically feasible tie-in point that is actively delivering Cable Service as of the date of the request.

ORDINANCE 2003-10

CITY OF ALBERTVILLE, MINNESOTA

AN ORDINANCE GRANTING A FRANCHISE TO FTTH COMMUNICATIONS, L.L.C., A MINNESOTA LIMITED LIABILITY COMPANY, TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM AND PROVIDE CABLE SERVICE IN THE CITY OF ALBERTVILLE, MINNESOTA.

RECITALS:

1. This cable franchise ordinance ("franchise") is made and entered into by and between the city of Albertville, a municipal corporation of the state of Minnesota ("city") and FTTH Communications LLC, a Minnesota a limited liability company ("grantee").

2. Pursuant to ordinance no.____ ("cable ordinance) [1] , the city is authorized to grant and issue a nonexclusive franchise authorizing the grantee to provide cable service and construct, operate, and maintain a cable system in the city.

3. The grantee timely submitted a request for a franchise.

4. Upon evaluation of grantee's technical, financial, legal qualifications, completion of franchise negotiations, and as a result of a public hearing, the city finds that it is in the best interests of the city and its residents to grant and issue a franchise to grantee.

5. This franchise is nonexclusive and complies with applicable laws and regulations.

THE CITY COUNCIL OF THE CITY OF ALBERTVILLE HEREBY ORDAINS:

SECTION 1. GENERAL PROVISIONS:

1.1: Definitions: Unless otherwise defined herein, the terms, phrases, and words contained in this franchise have the meaning provided in the cable ordinance[2]. Terms, phrases and words contained in this franchise that are not defined here or in the cable ordinance will have their normal and customary meaning.

MPUC: The Minnesota public utilities commission, or its lawful successor.

1.2: Written Notice: All notices, reports, or demands required to be given in writing under this franchise or the cable ordinance must be delivered personally to any officer of grantee or the city administrator or deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to city: City of Albertville

Attn: City Administrator

City of Albertville

8899 Nashua Ave. NE

Albertville, MN 55330-7314

If to grantee: FTTH Communications, L.L.C.

4483 Evermoor Parkway

Rosemount, MN 55068

Attn: John Schultz

With copies to: Christopher K. Sandberg

Lockridge Grindal Nauen

Suite 2200

100 Washington Avenue South

Minneapolis, MN 55401-2179

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

SECTION 2. GRANT OF FRANCHISE:

2.1: Grant:

a. Grantee is authorized to deliver cable service and construct, operate and maintain a cable system in the rights of way in the city.

b. This franchise is granted pursuant to the cable ordinance. By accepting this franchise, grantee agrees to be bound by the terms of the cable ordinance. In the event of any conflict between the provisions of this franchise and the cable ordinance, the provisions of this franchise shall govern. The city shall, at all times, have the right to amend the cable ordinance in the exercise of its police powers and as otherwise permitted by applicable law.

c. Grantee acknowledges the right of city to issue this franchise.

2.2: Franchise Term: This franchise will be in effect for a period of fifteen (15) years from the date of acceptance by the grantee, unless sooner renewed or revoked.

2.3: Service Area:

a. Grantee's system will pass and grantee will offer service to all dwellings, homes and businesses within the area(s) identified on the map attached as exhibit A.

b. The city does not initially intend to enforce system extension requirements. Upon the city's adoption of a resolution imposing system extension requirements, the grantee will extend its system and offer cable service to areas not identified in exhibit A within a reasonable time, not exceeding one hundred twenty (120) days, after a request for service. Provided, however, that grantee will only be required to extend its system where such extension area has a density of at least nine (9) residential units per one-quarter ($^1/_4$) cable mile of system, as measured from the nearest tap on the cable system. Where the density is less than that specified above, grantee shall inform persons requesting service that such service will be provided upon payment of a portion of the cost of installation or line extension and grantee shall provide a free written estimate of such cost within fifteen (15) days of the service request. The charge for installation or extension for each person requesting service shall not exceed a pro rata share of the actual cost of extending the service.

SECTION 3. SYSTEM:

3.1: System Capacity: Grantee will construct and operate a passive fiber optic network with fiber extended to the subscriber's dwelling providing at least the equivalent of seven hundred fifty (750) MHz of capacity. The system will deliver at least seventy five (75) video programmed channels throughout the term of this franchise. A portion of the capacity may be reserved for competitive services such as digital programming, internet service or other telecommunications services. Grantee's system will have return capability.

3.2: Construction Deadline: Grantee must substantially complete the construction of its system within twelve (12) months after acceptance of this franchise. This requirement may only be waived by city in writing, upon the occurrence of acts beyond the reasonable control of grantee.

3.3: Pedestals: Pursuant to section 5.3b of the cable ordinance[2] , grantee shall be permitted to install standard pedestals necessary for standard installations without receiving prior approval from the city. A standard pedestal shall be no larger than two feet by two feet (2' x 2') and three feet (3') tall.

SECTION 4. COMMUNITY SERVICES:

Notes

1 1. See title 4, chapter 6 of the city code.

2 1. See subsection 4-6-18C2 of the city code.

4.1: PEG Access Facilities:

a. Access Channels: The grantee must dedicate two (2) channels for noncommercial public, education, and government access (hereinafter "PEG access") programming. The PEG access channels must be cablecast on the basic cable service tier. All subscribers who receive cable services offered on the system must receive the PEG access channels at no additional charge. The second PEG access channel must be activated

within thirty (30) days of city's request after grantee's completion of system upgrade in accordance with section 3.2 of this franchise and thereafter maintained. The VHF spectrum must be used for the provision of at least one of the PEG access channels. Nothing herein shall diminish the city's rights to secure additional channels pursuant to Minnesota statutes section 238.084, subd. 3(a)(2), and applicable FCC regulations.

b. Channel Usage: One specially designated PEG access channel must be available for noncommercial use by the general public, local education authorities and local government on a first come, first served, nondiscriminatory basis. During those hours that such PEG access channel is not being used by the general public, local educational authorities or local government, the grantee may lease time to commercial or noncommercial users on a first come, first served, nondiscriminatory basis if the demand for that time arises. The grantee may also use this PEG access channel for local origination during those hours when the channel is not otherwise in use. The second PEG access channel must be available for such noncommercial use as is determined solely by the city (hereinafter "city channel"). The grantee must ensure that the city channel is designed to be capable of cablecasting live programming originated at city hall and such other public institutions as city may designate in writing, provided however, grantee shall only be required to pay for the expense of the first one hundred fifty feet (150') of new system construction and city shall pay any additional actual construction cost. Grantee must provide reasonable technical assistance in relation to the origination and delivery of access programming. City shall, at all times, provide grantee with the same video programming provided to other system operators in the city.

c. Responsibility For PEG Access: The grantee will have responsibility for PEG access only as provided in this section 4.1. The city and grantee may agree to the city's operation, administration, and management of PEG access programming on the city channel and the specially designated PEG access channel. In such case, the city may designate responsibility for the city channel and/or specially designated PEG access channel to a city board, committee or a third party.

d. PEG Access Facilities, Equipment And Programming: Upon acceptance of this franchise, grantee shall provide city two thousand dollars ($2,000.00) to be used exclusively to purchase PEG access facilities. Thereafter, within sixty (60) days of delivery of paid invoices, grantee shall reimburse city for costs incurred by city in purchasing PEG access facilities. Grantee's total obligation pursuant to this subsection 4.1(d) shall not exceed ten thousand dollars ($10,000.00) throughout the term of this franchise. In the event there is competition in the city during the term of this franchise, the city shall ensure that the obligations to support PEG access facilities are imposed equally, in a nondiscriminatory fashion.

e. Future PEG Access Support: In addition to the requirements of subsections 4.1(a) through (d) above, the city may require grantee to collect an access fee to purchase additional PEG access facilities. The access fee must not exceed one dollar ($1.00) per subscriber per month. Payments must be made quarterly. All amounts paid shall be subject to audit and recomputation and city's acceptance shall not be an accord that the amount paid is correct. The city may adopt a resolution modifying the access fee amount no more than once every twenty four (24) months. The city must provide notice of any modification to grantee on or before October 1, to be effective on January 1 of the following year. Grantee may itemize any access fee on subscriber's bills. Payment by grantee must be separate from and in addition to any fee.

f. Access Rules: The city may implement rules for use of the PEG access channels. Prior to the cablecast of any program on any PEG access channel established herein, any person who requests access to the system to provide video programming must provide a written certification acceptable to city which releases, indemnifies, and holds harmless grantee, city, and their employees, officers, agents, and assigns from any liability, cost, damages and expenses, including reasonable expenses for legal fees, arising or connected in any way with said program.

g. Charges For Use: Channel time and playback of prerecorded programming on the specially designated PEG access channel must be provided without charge. Personnel, equipment and production costs may be assessed for live studio presentations. Charges for production costs must be consistent with the goal of affording the public a low cost means of television access.

h. Parity Of Obligations: In the event there is competition in the city during the term of this franchise, the city will impose equivalent PEG access obligations on all franchised providers of cable service in the city and the access fee shall be identical for all providers.

4.2: Drops And Service To Public Buildings:

a. The grantee must install one drop and one outlet, and provide monthly cable service (excluding pay-per-channel or pay-per-program) without charge to city hall, all public and state accredited parochial primary and secondary schools, and such other public institutions as city may subsequently designate in writing. Upon request by the public institution, the grantee may alternatively install and provide a data service of equivalent market value to grantee's cable service.

b. The grantee must extend distribution cable up to one hundred fifty feet (150') without cost in order to provide service to institutions subsequently designated by the city. The city or institution may be required to pay the cost of any system extension in excess of one hundred fifty feet (150').

c. Grantee will have a reasonable time from city council designation of additional institution(s) to complete construction of the drop and outlet. Additional drops and/or outlets at institutional locations must be provided by grantee at the cost of grantee's time and material. Alternatively, institutions may add outlets at their own expense.

d. In the event grantee introduces internet access service, grantee shall provide such service and all associated equipment free of charge to city hall. Grantee shall permit distribution of internet access service to computer terminals within city hall. Grantee will not be responsible for the equipment and wiring needed to distribute the service. The city may only use the free internet access service provided pursuant to this section 4.2 for use by city staff in official city matters.

SECTION 5. ADMINISTRATION PROVISIONS:

5.1: Franchise Fee: The grantee must pay a franchise fee to the city in an annual amount equal to five percent (5%) of its gross revenues.

5.2: Video Programming: The video programming which grantee will initially provide pursuant to this franchise is listed on exhibit B attached hereto.

5.3: Rules Of Grantee: The grantee may promulgate such rules, terms and conditions governing the conduct of its business provided that such rules, terms and conditions must not be in conflict with the provisions of this franchise, the cable ordinance, or applicable laws or regulations.

SECTION 6. INDEMNIFICATION, INSURANCE, BONDS AND SECURITY FUND:

6.1: Indemnification: By acceptance of this franchise, the grantee agrees to indemnify, defend, and hold the city harmless in accordance with the cable ordinance [1] .

6.2: Insurance: At the time of acceptance of this franchise, the grantee will file with the city a certificate of insurance in accordance with the cable ordinance [2] . The grantee must maintain such insurance for the entire term of this franchise.

6.3: Performance Bond:

a. The grantee must furnish the city a performance bond in the amount of thirty thousand dollars ($30,000.00) in a form and with such sureties as are reasonably acceptable to the city. At the time of acceptance of this franchise, the grantee will file with the city a copy of the performance bond. The grantee must maintain the performance bond until this franchise expires or is terminated, and the grantee has liquidated all

of its obligations with the city.

b. The performance bond must be conditioned upon grantee's faithful performance in accordance with the terms of this franchise, the cable ordinance, and applicable laws and regulations. The bond must provide that in the event the grantee fails to comply with any law, ordinance or regulation, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the grantee, plus a reasonable allowance for attorney fees and costs, up to the full amount of the bond, will be recoverable jointly and severally from the principal and surety of the bond, and further guaranteeing payment by the grantee of claims, liens and taxes due the city which arise. In the event this franchise is revoked or the rights hereunder relinquished or abandoned by grantee, the city must be entitled to collect from the performance bond any resultant damages, costs or liabilities incurred by the city.

c. It may be difficult or impossible to accurately quantify actual damages or losses suffered by the city due to a violation or unsatisfied obligation under this franchise, the cable ordinance, or applicable laws or regulations. Such violations or unsatisfied obligations may, however, be presumed to harm the city and the public's interest. Accordingly, the city may, in its reasonable discretion, collect from the performance bond liquidated damages in an amount of up to two hundred fifty dollars ($250.00) per violation of any provision of this franchise, the cable ordinance, or applicable laws or regulations. Each violation may be considered a separate violation for which separate liquidated damages can be imposed.

d. In the event the city will make any claim against the performance bond, the city must comply with section 14 of the cable ordinance governing enforcement of this franchise [3] .

e. The city's rights pursuant to the performance bond are in addition to all other rights the city may have. Any action with respect to the performance bond does not constitute an exclusive remedy nor limit any other right.

6.4: Construction Bond:

a. During periods in which system construction rebuild, upgrade or line extension costs are expected to exceed fifty thousand dollars ($50,000.00), grantee shall provide a construction bond in the amount of fifty thousand dollars ($50,000.00).

b. Upon completion of initial system construction within the service area identified on the map attached as exhibit A, the grantee must provide written notice to city. Within thirty (30) days of receipt of notice of completion of said construction, city must give written notice to the grantee indicating whether the construction is complete or specifying those items of construction which the city determines are not complete. The city may enforce the construction bond if such items of construction are not thereafter completed within sixty (60) days. Upon completion of construction or satisfaction of any items determined to be incomplete, the construction bond shall be returned to grantee.

c. In the event the city will make any claim against the construction bond, the city must comply with section 14 of the cable ordinance governing enforcement of this franchise [4] .

d. The city's rights pursuant to the construction bond are in addition to all other rights the city may have. Any action with respect to the construction bond does not constitute an exclusive remedy nor limit any other right.

SECTION 7. MISCELLANEOUS REQUIREMENTS:

7.1: Amendment Of Franchise Ordinance: The grantee and the city may agree, from time to time, to amend this franchise. Nothing herein restricts the city's lawful exercise of its police powers, ordinance making authority, and power of eminent domain.

7.2: Force Majeure: In the event grantee's performance of this franchise is prevented due to a cause beyond its reasonable control, such failure to perform must be excused for the period of such inability to perform provided grantee has notified the city in writing within ten (10) days of its discovery of such cause preventing performance.

7.3: Severability: If any term, condition or provision of this franchise or the application thereof to any person or circumstance is held, to any extent, invalid or unenforceable, the remainder and all the terms, provisions and conditions herein must, in all other respects, continue to be effective provided the loss of the invalid or unenforceable provisions do not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the franchise provision which had been held invalid or modified is no longer in conflict therewith, such franchise provision will return to full force and effect and thereafter be binding.

7.4: Nonenforcement By City: The grantee is not relieved of its obligations to comply with this franchise or the cable ordinance due to any failure or delay of the city to enforce prompt compliance. The city and grantee may only waive its rights by expressly so stating in writing.

7.5: Rights Cumulative: All of the city's and grantee's rights and remedies pursuant to this franchise are in addition to and not exclusive of any and all other rights and remedies available to the city or grantee.

7.6: Work Performed By Others: All obligations of this franchise apply to any agent, subcontractor or other person performing any work or services on behalf of the grantee pursuant to this franchise to the extent applicable, however, in no event will any such person obtain any rights to maintain and operate a system or provide cable service.

7.7: Acknowledgment Of Validity Of Franchise: The grantee acknowledges that it believes that the terms and conditions of this franchise comply with current laws, are not unreasonable or arbitrary, and the city has the power to enter into this franchise on the terms and conditions contained herein.

SECTION 8. ACCEPTANCE OF FRANCHISE:

8.1: Publication And Effective Date: This franchise will be effective on the date of acceptance by grantee. As required by applicable law, this franchise must be enacted and published as an ordinance.

8.2: Time For Acceptance:

a. The grantee must accept this franchise within thirty (30) days of enactment by the city, unless the time for acceptance is extended by the city. Acceptance by the grantee will be deemed the grant of this franchise for all purposes.

b. Upon acceptance of this franchise, the grantee and city will be bound by all the terms, conditions and obligations contained herein.

8.3: Manner For Acceptance: The grantee must accept this franchise in the following manner:

a. The franchise must be fully executed and acknowledged by grantee and delivered to the city.

b. The grantee must also deliver any construction bond and insurance certificates required herein that have not previously been delivered, with its acceptance.

8.4: Failure To Accept: In the event the grantee does not timely accept this franchise in accordance with the requirements herein, this franchise and

all rights granted herein are null and void.

Passed and adopted this 19 of May, 2003.

CITY OF ALBERTVILLE

By: ss/Don R. Peterson

Its: Mayor

By: ss/Bridget M. Miller

Its: City Clerk

ACCEPTED: This franchise is accepted and we agree to be bound by its terms and conditions.

FTTH COMMUNICATIONS, L.L.C.

Dated: _____

By:_____

Its:_____

EXHIBIT A

(Service Area Map)

EXHIBIT B

(Channel Line Up)

Notes

1 1. See subsection 4-6-11A of the city code.

2 2. See subsection 4-6-11B of the city code.

3 1. See subsections 4-6-7B and 4-6-25B and C of the city code.

4 2. See subsections 4-6-7B and 4-6-25B and C of the city code.